FACT: Gun Control Sank Al Gore *by* Sam Paredes

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Abuse, not 'liberation'
Seducing children is wrong
by Carl Pearlston

The New Tammany Hall
Gray Davis impersonates Boss Tweed
by Mark S. Pulliam

Simon/Davis
Head-to-Head
Discussing issues, politics, the campaign

Interview, comments compiled by
George Neumayr

Clichés
of the Capitol
When slogans rule Sacramento
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by Anne M. Hayes

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FEATURES

COVER ARTICLE: Simon/Davis Head-to-Head Compiled by George Neumayr 18
Bypassing handicappers, newsmen, and spinmeisters, gubernatorial rivals William E. Simon, Jr., and Gray Davis discuss issues, politics, and their campaigns.

Cliché's of the Capitol By Robert L. Giovati 11
A tongue-in-cheek tell all: When slogans rule Sacramento.

Free Speech Requiem By Anne M. Hayes 13
A high school misplaces its copy of the First Amendment.

Abuse, not 'liberation' By Carl Pearlston 15
Alan Bell's 21-year-old 'finding' has proven false and destructive.

One Word of Truth By James Bemis 27
Updating the academic fraud that was once the venerable Jesuit University of San Francisco.

DEPARTMENTS

Correspondence 2
Sacramento Spectator 3
The Law By Mark S. Pulliam 4
The Front Line 5
Facts on Gun Control By Sam Paredes 6
Those In Power Over Us By M.David Stirling 8

ARTS & CULTURE

Criticus By G.B. Tennyson 32

A Plague of Plagiary — Plagiarism has always been with us, but alongside many other ills, the brain-dead '60s seem also to have spawned an explosion of theft of others' written words — also hoaxes, forgeries, altered histories ....

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CORRESPONDENCE

Is corruption at UC incurable?

It seems "race and sex preferences" are here to stay, regardless of earnest efforts by authoritarian reform liberals to make us "race and sex blind," at least judging from M. David Stirling's account of UC Berkeley being "corrupted" by backdoor discrimination. ("Skating 'Round the Rules," *CPR*, May/June 2002) But isn't Proposition 209 heralded as a huge success in banning such discretion supposedly to make us "color blind," "level the playing field," etc.?

Actually, we should have learned by now that the problem is not "discrimination," which happens to be part of human nature and impossible to squelch short of the guillotine, as much as the futility of a reliable dialectic governing its attempted ban. While some like Dr. Connerly are making careers abjuring criteria of race, they promote laws perpetuating them. The real challenge would be to allow us to discriminate wisely without judicial interference, *e.g.,* under common law, with common sense, ancient folkways, brotherly love, good will, fair play, the Commandments, and so on. In the end, as Richard Epstein has reminded us, freedom of association trumps anti-discrimination law.

Until we realize this, recurring litigation will continue to plague us with racial controversy, slavery reparations suits, political correctness, confusion, and tortured circumlocution. The best cure would be to attack the source, the 1964 Civil Rights Act that carelessly chose to end Jim Crow not by specific mandate but by a vague ban of the more general practice of "discrimination." As Burke would say, "this sort of people are so taken up with their theories about the rights of man, that they have totally forgot his nature. Without opening one new avenue to the understanding, they have succeeded in stopping up those that lead to the heart."

W. Edward Chynoweth
Sanger

M. David Stirling responds:

"Race-based preferences," at least as official public programs of the state of California and its counties, cities, school districts, and special districts, are not here to stay. True, Proposition 209, which California voters added to the state's Constitution in 1996 to prohibit race-based preferences in public contracting, public employment, and public education (K-12 and public universities), is being ignored or flaunted by liberal elected officials who obviously believe it politically smart to play the race-card ("minorities" are now the state's combined majority.) One of those is the state's chief "law enforcement" official, the attorney general, who, in his oath of office, swore to defend the state Constitution.

Nonetheless, Proposition 209 is being effectively enforced by Pacific Legal Foundation, a public interest legal organization. As of this writing, California courts, including the state Supreme Court, have declared race-preference programs unconstitutional in every case PLF has brought: in public contracting, in public employment, and in public education. While Professor Richard Epstein and you are correct that "freedom of association trumps anti-discrimination law," there are many elected officials and other demagogues who thwart that freedom by creating and promoting artificial barriers between us. The un-American notion of race-preferences is one of those. CPR

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SACRAMENTO SPECTATOR

Anyone who has followed Gray Davis's career knows the guv's political odyssey from Tom Bradley fundraiser to governor of California has been one gigantic exercise in pushing the ethical envelope. The black and white difference between state work and political work has always seemed to be a gray area for Gray.

As Jerry Brown's chief of staff, he was investigated for using state computers for fundraising. As a state Assemblyman, Democrat Attorney General John Van de Kamp failed to pursue a criminal investigation by his office that had concluded Davis was using state staff for fundraising. Former Coastal Commissioner Mark Nathanson, according to the *Sacramento Bee,* sent a letter to government investigators saying Davis participated in a scheme to extract political contributions from parties with business before the Coastal Commission.

Now Davis's Oracle Scandal has combusted into a roaring fire just as the Sacramento Summer heat starts to bake the Capitol. Oracle has already dominated papers statewide for a couple of weeks and there is likely more to come. The scandal also touched off a fierce competition among the state's leading newspapers, spurring them to write one "pay to play" story after another about Davis and his administration.

The legislative hearings have been a farce compared to the aggressive Quackenbush hearings from two years ago. The Republicans have failed to demand outside counsel to assist their efforts, unlike the Democrats who retained a former federal prosecutor to assist their undoing of Commissioner Quackenbush.

GOP gubernatorial candidate Bill Simon pounced on the Oracle scandal at its outset, but seemed to lose interest quickly. There are bound to be more bad headlines this summer for Gray as the press keeps up its aggressive reporting; maybe Simon will take an interest in attacking his opponent again.

One key question will be whether or not the press will dare to scrutinize the role of Davis political boss Garry South in the "pay to play" Davis schemes. South does not work for the governor's office but seems to comment frequently on governmental issues, particularly energy. If reporters go after South, they risk losing a valuable source for stories.

If Representative Doug Ose forgoes a third term in 2004 to oppose Barbara Boxer for U.S. Senate, expect a fierce battle for Ose's safe GOP congressional seat between state Senator Rico Oller and Assembly GOP Leader Dave Cox. Cox would like to go to Congress as a career capper while Oller is ambitious and well-heeled financially. It would be a classic conservative/moderate GOP primary.

Meanwhile, besides Ose, the early rumored candidates for the GOP nomination to run against Boxer include Representatives Mary Bono, Darryl Issa, and Chris Cox, and state Senator Abel Maldonado. Of course, now there is also a persistent Arnold Schwarzenegger rumor for any statewide office.

With the San Fernando Valley secession *(aka* Independence) vote now set for November, GOP Assemblyman Keith Richman is a likely candidate for mayor of what would be the nation's sixth largest city. If cityhood succeeds and Richman wins the mayor's office, he would immediately become a leading candidate for statewide office in '04 or '06.

— A. P. C.

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THE LAW

The New Tammany Hall

Gray Davis more and more resembles an inept Boss Tweed.

MARK S. PULLIAM

WHAT SORT of public official would interrupt a policy meeting with a large and influential constituent group, being held in the official's private Capitol office, to say: "I need $1 million from you guys"? According to California Teachers Association President Wayne Johnson, as reported in the *L.A. Times,* Davis made that request in a Valentine's Day meeting earlier this year, repeating it a week later. Davis does not deny the charge. Common Cause reacted with appropriate disgust: "That the request was made at all is shocking. But that it was made in the governor's office makes it that much worse." Davis's normally hard-hitting campaign henchman Garry South responded lamely to GOP nominee Bill Simon's criticism of the incident: "It's easy," South said, "for a rich kid who inherited millions of dollars from his old man to criticize someone who works for a paycheck and has to raise money to run for office." Poor Gray: a measly $30 million in the bank, barely eking out a living as California's most powerful politician, forced to panhandle from lobbyists. "Can you spare a million dollars?"

Davis's chief technology advisor personally accepted a $25,000 campaign check from Oracle Corp. just as the Davis administration agreed to a boondoggle "no bid" $95 million contract for unneeded software (the state auditor later concluded it was a waste of taxpayer money). Following the Oracle scandal, critics charge that Davis runs state government like a Middle East bazaar. It is true his administration seems ready to put almost anything up for sale. But the "Middle East bazaar" metaphor connotes images of savvy merchants engaged in shrewd, even ruthless, negotiations. Davis in contrast, seems hopelessly out of his depth.

He dithered and equivocated during the electricity crisis, not signing long-term power contracts until prices were at their peak. Thus he squandered the largest budget surplus in California history, created a record deficit equal to nearly one-third of the general fund, and now proposes massive ($5 billion-plus) tax hikes to try to dig his way out. No self-respecting rug merchant would have dealt himself into such a hole.

As "Oracle" unraveled in increasingly seamy detail, Davis couldn't even decide whether to return the $25,000 donation: "I don't rule it in and I don't rule it out," he told the *Times,* saying he was waiting for a recommendation from Attorney General Bill Lockyer (who had to return $50,000 in Oracle contributions of his own). The next day, Davis said he would return the money. As administration finger-pointing continues, scapegoats and excuses emerge, legislative hearings proceed, and Simon hammers away on the issue, it is important to keep in mind that Oracle is no aberration; rather, it fits consistently with this governor's broad approach to governing. And, in fact, the Oracle deal amounts to pocket change compared to some of the payoffs won by other Davis donors, costing taxpayers and consumers billions of dollars. Davis rewarded organized labor's generous support by eliminating the flexible work week. Employers must now pay overtime whenever an employee works more than eight hours in one day, even if the employee's work *week* does not exceed 40 hours. Davis radically expanded the scope, enforcement, and penalties of California's "prevailing wage" law, so that union scale wages and benefits must now be paid on all government-funded construction projects as well as many private projects if they receive public agency assistance such as tax credits, fee waivers, and other common financial incentives. He also approved a multi-billion dollar workers' compensation hike.

DAVIS MADE it easier for another donor group, trial lawyers, to sue employers by (1) expanding the scope of California's disability discrimination laws (as if the federal ADA is not one-sided enough!); (2) making "sexual orientation" a protected class; (3) prohibiting

Mark S. Pulliam, California Political Review's *legal issues correspondent, is an attorney in private practice in San Diego.*

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THE FRONT LINE

Grass Roots are still key

For a lot of Sacramento's political "pros," the question of the moment is: where is Bill Simon? Of course, that was the question of the moment last November, December, and January, when Simon was knitting together his operation, talking with the grassroots, and, slowly but surely, putting together the campaign that would ultimately knock the invincible Richard Riordan out of the governor's race. (This column, truth be told, was among those chiding Simon before the primary for not hitting sooner with TV spots.) Perhaps this time, the "pros" should be a little less quick to second guess.

One thing is sure: Simon's potential has excited the grass roots. As each new Gray Davis revelation hits the news, and as the media sharks increasingly smell blood in the water, Republican activists become more convinced the race is winnable — winnable by one of their own.

Riordan's rejection by 70 percent of Republicans, despite his enormous advantages at the beginning of the Primary campaign, should have put to rest the idea of Republicans as "deeply divided" on fundamental issues. The California GOP is perfectly comfortable with a conservative nominee because the Party is thoroughly conservative, past divisions having been a top-down matter that dissolved away with, perhaps, surprising speed.

But common wisdom in Sacramento these days (as always) is that a conservative cannot win in California, even though — much like campaigns past — a conservative has come from nowhere to unite

the Party, campaign intelligently, and, perhaps, pull off in November what the pundits want to believe is impossible.

Will it work? Who knows? Had Simon hit Riordan on TV earlier, he might have won by 30 points instead of only 18. But he chooses to keep us all biting our nails, wondering if he's got the savvy to pull this off.

Truth is, the election depends on a lot more than just Simon and his campaign strategy. In the end, it will be decided more than anything by a whole lot of sweat, a whole lot of luck, and just the right amount of prayer, most of it coming from activists up and down the state. Democrats still have a significant, although shrinking, registration advantage in California, and it will take a lot of work, and just the right amount of good fortune, for Republicans to overcome that.

And the grass roots *is* activated. The June 21-22 Western Conservative Conference (Marriott Hotel Ontario Airport, see: *www.WesternConservativeConference.org)* will be punctuated by considerable optimism. For the first time in many years, more than just a history lesson will be involved in listening to the wisdom of Lyn Nofziger and of other powerful voices of the California conservative movement. It will be a lesson for the future: about how the past can help the movement go forward.

For years now, the California movement has wandered without direction, indulging in internal dissension, and focusing on irrelevant details, some of its members becoming so demoralized and desperate they fell in with false gods, *i.e.,* Dick Riordan. The rebirth of the movement is long overdue. Perhaps Simon's candidacy is the spark to make it happen.

CPR

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English-only rules in the workplace; and (4) creating anomalies between state and federal wage and hour rules. These differences create legal traps for unwary employers whose practices comply in 49 states but become prey to class action lawsuits in California.

AN EVEN more dramatic example of special favors for a particular donor group is Davis's dealings with the prison guards union, which spent $2.3 million to help elect him in 1998 and which has ponied up hundreds of thousands more for his re-election this year. Davis signed a contract in January giving the guards a 34 percent pay hike and gold-plated retirement benefits — at a cost of up to $1 billion through 2006 — and proposed to shut down the state's five privately-run, non-union prisons (government monopolies hate competition). In March, the union gave Davis another $251,000, union President Don Novey denying any connection between Davis's actions and union donations.

Sacramento Bee columnist Dan Walters reported a Davis administration cave-in to plumbers unions, which have contributed $1.4 million to Davis's campaign coffers. (Is Garry South's plea for sympathy beginning to sound ludicrous?) For two decades, plumbers, employing bogus environmental and safety claims, have opposed the use of plastic pipe to carry potable water in residential construction in California. Plastic pipe is cheaper and less labor-intensive than conventional pipe, which is why builders favor it, and why these unions do not. Virtually every other state uses plastic pipe, which could save $1,000-to-$2,000 per new house built. In 1998, Governor Pete Wilson's Department of Housing and Community Development issued a report concluding that the use of plastic pipe (known as PEX) for potable water posed no threat to public safety, indicating the California ban should end. In late 2001, the same agency, now under Davis's control, reached the same conclusion. But ... the unions objected, the agency reversed itself, and the ban was reinstated. The same day the Oracle story broke, the Davis-appointed Building Standards Commission

WHAT YOU HAVEN'T BEEN TOLD ABOUT GUN CONTROL

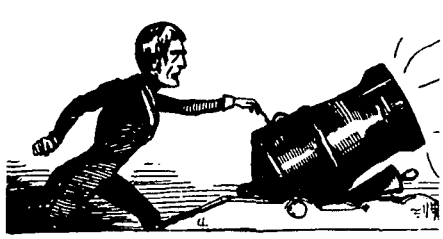
By SAM PAREDES

It's a fact: Al Gore and the Democrats lost in 2000 because of their strong pursuit of gun control. Bedrock Democrat constituencies (labor) voted against them, putting gun rights ahead of pocketbook issues. Even the media criticized the left for blindly pushing gun control too far. Result: no major anti-gun efforts are now before Congress and most anti-gun organizations are in financial shambles — reorganizing, consolidating, cutting expenses to stay afloat.

The lesson has been learned everywhere except in California where Second Amendment-haters recently lost a major effort to ban so-called "50 Caliber Sniper Rifles" and have launched two backdoor efforts to reduce gun ownership.

First is a drive to overturn California law (recently upheld by the state Supreme Court) exempting firearms manufacturers' from product liability suits based their *customers'* misuse of firearms. Senator Don Perata and Assemblyman Paul Koretz are sponsoring bills (SB 682 and AB 496, respectively) to eliminate the exemption. This would flood gun makers with lawsuits likely to drive them out of business. Although the manufacturers will win every case, many will eventually succumb under the impossible financial burden of defending themselves.

Second, gun-haters (*your* guns, that is, not theirs) believe that reducing opportunities for people to shoot and hunt will reduce gun demand. So the Fish & Game Department is shutting down the state's most efficient operation offering Californians "Hunter Safety" classes. It is run by Mike Raahauge, owner of Raahauge Sporting Clays in Norco. Annually, a full 10 percent of all "Hunter Safety Certificates" — required to obtain a hunting licence in the state — come from Raahauge, who has figured out how to make obtaining one relatively simple and convenient. DFG seems to feel Raahauge is missing the whole point of the classes, *i.e.:* that they should be as obnoxious and *inconvenient* as possible, serving, one suspects, more as a tool to discourage hunting than to promote safety.



Next issue: Will attacking guns serve Dems here better than it did Gore? CPR

Sam Paredes is executive director of Gun Owners of California.

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adopted the unions' position. The unions quickly rewarded Davis with a new $260,000 contribution.

What's happening here? At the behest of a single donor, Davis's appointees stifle innovation, effecting a massive wealth transfer from home buyers to union plumbers, estimated value: $150-300 million per year.

There's more. California's Little Hoover Commission issued a report May 8 decrying the state's housing crisis. California housing costs are the nation's second highest (only Hawaii costs more). New home construction here lags behind demand at the rate of 100,000 units per year. The shortage is particularly acute in multi-family construction (apartments and condominiums). According to the report, "if current trends continue, California will build less than 60 percent of the new housing needed over the next 20 years." Why the building deficit? The Davis-appointed Little Hoover Commission, chaired by Democrat Senator Dede Alpert's husband, did not mention it, but one reason is that California developers wanting to build multi-family housing cannot obtain insurance due to a crippling regime of construction defect litigation. Democrats have repeatedly rejected any attempt at reform, which is consistently opposed, it need hardly be said, by trial lawyers.

Another reason is the environmental-extremist, no-growth agenda of such agencies as the California Coastal Commission (whose members are appointed by Davis and Democrat legislative leaders). A recent *L.A. Times* article illustrated how the Commission denies people housing. A 24-acre parcel of ocean-view property in Orange County — worth $30 million — remains undeveloped despite local approval for the owner's planned construction of 125 homes and permits from state and federal wildlife officials. Why? The project has yet to win the Coastal Commission's approval. There is a problem. Six small rodents live on the property. Not just any rodents, but "Pacific pocket mice," a type of rodent listed as an endangered species. (And you thought only whales, bald eagles, and similar animals were protected; in fact, most of the species listed are bugs and rodents.) The property owner is willing to relocate the six rodents to ensure their safety and survival, but — guess what? — environmental extremists insist their "habitat" should be preserved as well. In other words, 24 acres of prime real estate should be devoted exclusively to six mice, while thousands of middle class families can't afford to buy a home or are forced to commute hours on congested freeways from distant bedroom communities. In the Coastal Commission's view, in determining who shall occupy these 24 acres, preservation of a "habitat" outweighs the interests of the property owner and families who would like to live there.

Profiling

Who thought that we would ever see
Scared folks from their apartments flee,
Their hearts and minds all filled with dread
Because of things Dick Cheney said,
(Though he admits it's just a hunch)
Regarding the bin Ladin bunch?
For Cheney warns we can expect
To see some big apartments wrecked
By Moslems using bomb or plane
To kill and terrorize again.
He cannot pick the time or day --
Tomorrow or a year away.
But it will happen, he is sure
(For terrorism there's no cure)
So if you live in highrise flat
Be warned; that's where the danger's at.
And if an Arab you should spy
Inside, don't wait, call FBI.
Remember, though, while you're dialing,
What you're doing is profiling.

— by Joy Skilmer*

The decisions of Davis's extremist Coastal Commission can impose even larger costs on the public — sometimes amounting to billions of dollars.

On April 8, 2002, the Coastal Commission shocked the city of San Diego when it rejected what should have been the routine approval of San Diego's "waiver application" to discharge highly treated sewage into the ocean hundreds of feet beneath the ocean surface through an outfall pipe that extends miles offshore. San Diego has been discharging treated sewage in this manner, with the approval of the federal Environmental Protection Agency, for more than two decades, pursuant to a federal Clean Water Act provision recognizing that open ocean differs from enclosed bays and inland rivers. Scientists from the world-renowned Scripps Institution of Oceanography have concluded that the city's discharge causes no harm to the ocean and presents no threat to public health. A federal judge concluded, after a lengthy trial, that the city is causing no adverse impact on the marine environment. Nonetheless, the Coastal Commission's arbitrary decision, unless overturned,

** The political verse of Joy Skilmer, né Lyn Nofziger, is available from MND Publishing, 573 Marina Rd., Deatsville, AL 36022. Keep up with Lyn's "musings" at: www. lynnofziger.com*

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will require the city to build a new sewage treatment plant at a cost of more than a billion dollars.

THIS ADMINISTRATION'S "pay to play" attitude is so deeply entrenched, it exhibits patronage within patronage. First, Davis awards seats on the UC Board of Regents — a prestigious position once reserved for the state's most prominent business and civic leaders — to *nouveau riche* mega-donors. Then, the Board of Regents doles out favors to other Davis cronies. Consider the case of Bill Lerach, who was last heard of in these pages when he filed suit against the state to recover $88.5 million in attorneys' fees for the smog tax refund — an achievement for which he was not even responsible. The $8,800 per hour windfall had all the earmarks of a payoff to Lerach, who was a major Davis campaign donor. (See "Mr. Smith Goes to Sacramento," *CPR* (July/Aug. 2001).)

Lerach, whose firm is under investigation by a federal grand jury in Los Angeles, has become fabulously wealthy by bringing "strike suits": class actions alleging fraud on behalf of shareholders against companies whose stock has dipped. Lerach became the most reviled plaintiffs' lawyer in California when he sponsored Prop. 211 in 1996. 211 threatened to decimate California's economy by authorizing extortionate litigation against corporations, so rigging the rules that the victims would be virtually defenseless. The business community spent $35 million fighting the measure (successfully), but lost Republican control of the Assembly in the process. Lerach has such a shabby reputation as a shakedown artist that a judge in Florida recently compared his firm to the "'squeegee boys' who used to frequent major urban intersections and who would run up to a stopped car, splash soapy water on its perfectly clean windshield and expect payment for the uninvited service of wiping it off." Of course, the "squeegee boys" relied on an element of menace to motivate payment; it was a subtle form of robbery, which brings us back to class action litigation. Well, Davis's hand-picked Board of Regents has hired Bill "Squeegee Boy" Lerach to represent the University of California in litigation against Enron Corp. to recoup UC's investment losses. This should be a lucrative assignment and, in light of Enron's obvious guilt, not very challenging work. Dean Andal, a member of the State Board of Equalization and a vocal critic of the $88.5 attorneys' fee award, denounced the Board's retention of Lerach as a conflict of interest. "How can you sue a client [the state of California], and represent him in another matter?" he asked. Andal suggested an answer: "The motivation is obvious: greed."

A decade ago, with California facing a bumpy economy and severe budget deficits, Peter Ueberroth's blue-ribbon Council on California Competitiveness recommended economy-stimulating policies such as cutting regulations and reforming the civil justice system. Today, with California facing a bumpy economy and severe — record-setting — budget deficits, Sacramento Democrats led by Gray Davis are busy banning SAT testing in UC admissions, attempting to restore bilingual education through Board of Education regulations that turn Ron Unz's Proposition 227 on its head, subsidizing illegal alien attendance at state colleges at resident tuition rates, permitting illegal aliens to obtain drivers licenses, banning the use of Indian mascots by public schools, and promoting "reparations" payments for slavery-era practices that occurred more than 150 years ago and even though California never recognized slavery — an inept Boss Tweed. CPR

THOSE IN POWER OVER US

Killjoys

The Fish & Wildlife Service's 'return-to-the-wild' partnership with politically-aggressive environmental groups seems more anti-people than pro-conservation.

M. DAVID STIRLING

OCEANO DUNES State Vehicle Recreation Area — three miles south of Pismo Beach off Highway 1 — was created in 1971 by the California Legislature. It is arguably the last major stretch of beach in the United States where people can camp, ride horses, or enjoy all-terrain vehicles at water's edge. More than one million people from all parts of the nation visit the area

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each year, contributing an estimated $110 million to the local economy. A Sierra Club lawsuit under the federal Endangered Species Act (ESA) — threatening to force the state of California to shut down all human activities at the Oceano Dunes site — illustrates the "species-first, people-last" approach that so often characterizes the ESA in action.

The Sierra Club suit involves the Western snowy plover, a 2-ounce, sand-hued shorebird that breeds primarily on the sandy beaches of California, Oregon, and Washington between mid-March and mid-September. In 1993, the U.S. Fish and Wildlife Service (FWS) listed the plover as a "threatened" species under the ESA. In its actions under the Act, FWS routinely blames humans for any decline in a species' population. Where the decline can be attributed to "human activity," ESA authorizes Fish and Wildlife to assert federal jurisdiction over land-use — traditionally a province of state or local governments. In its "return-to-the-wild" partnership with politically-aggressive and well-financed environmental organizations, the gaining of land-use control — especially in rural America — is FWS's ultimate objective. And "stretching" to accomplish that mission finds no embarrassment within the FWS.

So it was with the listing of the plover: the "listing" report found "European beachgrass ... (a) non-native plant ... introduced to the west coast around 1898 to stabilize dunes" as most responsible for loss of plover breeding grounds. And although, historically, most plover nest destruction is caused by mammals and other birds, FWS attributed that predation to humans by findings that "urban/agricultural areas" attract crows and ravens, and the "accumulation of trash at beaches attracts" skunks, raccoons, gulls, and the "introduced eastern red fox." While little plover habitat is damaged by direct "human activity" such as walking, jogging, running pets, horseback riding, off-road vehicle use, and camping, FWS biologists nevertheless listed the western snowy plover as a threatened species. (Yet, at this writing, evidence is mounting that questions FWS's scientific data supporting the listing.)

Now, the ESA's listing process is flawed and vulnerable to manipulation of scientific data-gathering, which often brings adverse effects on humans. But the listing is only the opening act in the increasingly high drama of species versus people. It is with the "designation of critical habitat" that people's lives and livelihoods collide with the agency's plan for preservation and recovery of the listed species. Once critical habitat is designated, activities that might cause or increase human-associated disturbance of the species are forbidden, subjecting violators to stringent penalties. Just walking on the beach, for example, could result in a $50,000 fine *and* jail time, should a plover's nesting grounds be accidentally damaged.

Which brings us back to Oceano Dunes: In 1999, FWS designated 28 critical habitat areas that directly impact 20,000 acres of land along 210 miles of California, Oregon, and Washington beaches. Not coincidentally, most of these habitat areas are adjacent to small beach communities fairly described as "sleepy" from fall through spring. But when warm weather arrives — Memorial Day to Labor Day — these communities become crowded with tourists and beachgoers patronizing the restaurants, motels, service stations, beach shops, fishing boat rentals, and other vendors, in turn providing jobs and tax revenues to the local economies. Nonetheless, under the FWS's plan for preservation and recovery of the plover, "prohibited activities" between March 15 and September 15 include walking, jogging, clam digging, sunbathing, picnicking, kite flying, beach cleaning, horseback riding, hang gliding, motorized vehicle use, and camping.

In its zeal to protect the plover, the FWS neglected the one and only provision of the ESA designed to provide some consideration to people: a requirement that the listing agency evaluate the *economic* impact of the proposed designation on people living and working in the area, in comparison to the potential benefit to the species. In what has become more or less routine, FWS summarily responded: "No economic effect."

On May 6, 2002, Pacific Legal Foundation filed suit against FWS on behalf of several California, Oregon, and Washington-based entities on whom nearby designated plover habitat could impose severe economic and personal effects. One plaintiff in the suit is the nonprofit Friends of Oceano Dunes, a group

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whose stake in the controversy is but one example of the economic impact FWS ignored. Because of the Sierra Club lawsuit — filed on the grounds that critical plover nesting habitat is being damaged — "It may be only a matter of time before the government begins posting 'beach closed to people' signs in the sand along Oceano," said Russell C. Brooks, the PLF attorney handling the lawsuit.

Of course, Oceano Dunes is only one example. The aggressive enforcement of the Endangered Species Act by the FWS — or by environmental organizations, when they think FWS moves too slowly — cuts a mean swath throughout the West, especially in California:

- Agricultural production, business development, and even a much-needed new campus of the University of California at Merced have been stalled for several years because thousands of acres in economically-depressed regions of the Central Valley have been designated by FWS as critical habitat for a tiny crustacean known as fairy shrimp, despite the species' enormous capacity to thrive in swales, irrigation ditches, ponds, and any natural place water gathers.

- In a poor neighborhood in San Bernardino County, FWS's discovery of a colony consisting of eight protected Delhi sands, flower-loving flies delayed for more than a year the county's construction of a much-needed medical care facility, costing local residents not only emergency care, but local taxpayers $3.5 million to acquire a new site, because the original site had to be left vacant as habitat for the flies.

- In Santa Barbara County, every economic activity that environmental activists have opposed for years — winegrape vineyards, horticultural fields, vegetable row crops, cattle and equine grazing, and business development — has been harmed by the FWS's protection of the California Tiger Salamander.

When land is designated "critical habitat," property owners can make no modifications to it — for example, even the placement of a fence — without the U.S. Fish and Wildlife Service's specific approval, which often hinges on whether the proposed land-use will "disturb" the species in an FWS biologist's opinion. In other words, "critical habitat" designation means an owner's land-use is controlled by the federal government. That would include (1) 800,000 acres in five southern California counties for a bird known as the California gnat catcher; (2) 407,000 acres in Alameda, Contra Costa, Santa Clara, and San Joaquin counties for the protection of the Alameda whip snake (at the time FWS made the whip snake designation, it admitted not having adequate survey data to be sure what land the whip snake occupied, so it blithely included virtually all land within the snake's range, including all "potential" habitat); and (3) 4.1 million acres in numerous counties in northern and east-central California for the California red-legged frog.

Over the past three decades, hundreds of species of wildlife and plants have been given special protected status under the Endangered Species Act of 1973. It is serious enough that these listings have resulted in the federal government taking land-use control over hundreds of thousands of privately-owned acres. Yet, the law has an even more sinister side: each one of these hundreds of protected species has been listed without any consideration of the resulting social or economic impact on the people living and working in their habitat area — for instance, the Klamath farmers. That some 1,250 additional species await protected status only underscores the challenge people face from the ESA.

When the protection of plants or wildlife face off in court against peoples' lives and livelihoods, the result is always the same. The ESA makes no mention of "people," so the plants' and animals' protected status is always assured, and the resulting harm to people is always ignored. Courts are reluctant to factor into the ESA the "people" element that Congress failed to include in the law back in 1973. (The ESA's requirement that economic impact be evaluated applies only when "critical habitat" is designated, not at the initial stage, when species are "listed" as endangered. And, as we've seen, government agencies tend to predict no economic impact even when they are required to consider it and even when predictable economic impact is certain to be both negative and severe. They just skip it, and the courts rarely call them on it.) Thus, there is no forum, much less any rules, to accommodate the sometimes conflicting interests of man and wildlife.

Reasonable people do not disagree with the value of preserving as many plant, fish, and wildlife species as practical. Yet, when conflict invariably arises between species protection and the interests of human beings, good law starts with people. The Endangered Species Act puts people last without recognizing human values. It is a bad law. It must be reformed. CPR

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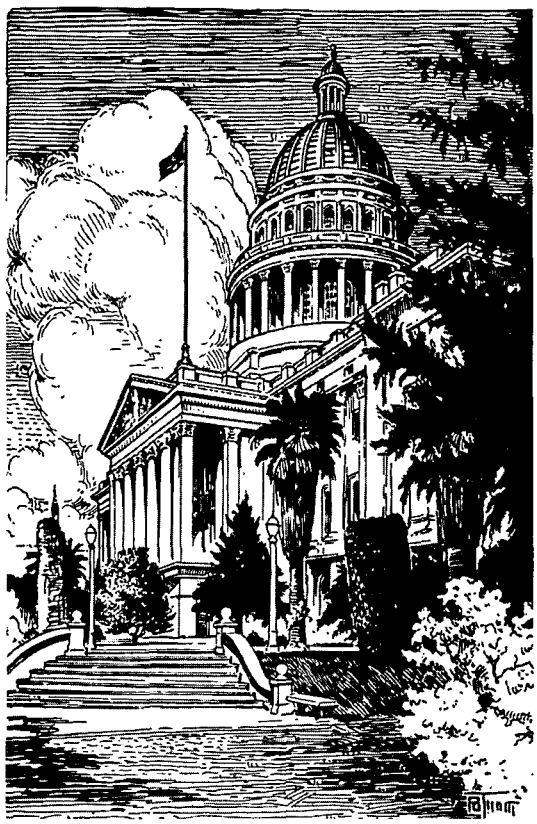
A TONGUE-IN-CHEEK TELL-ALL

Clichés of the Capitol

WHEN SLOGANS RULE SACRAMENTO

BY ROBERT L. GIOVATI

CALIFORNIA'S LEGISLATIVE process has been hijacked. Not by some nefarious, criminal, secretive group, or bizarre initiative that's qualified for the November ballot. By clichés. Slogans. Clever buzz words heard all over the state Capitol. Lobbyists, lawmakers, and other interested parties trade trendy verbal gems, as they jostle for position either favoring or opposing some piece of legislation. The goal, obviously, is to convince people of influence that your view is the right one, and that those who disagree are clearly out of the mainstream. How is that accomplished? Much of the time, with basic, stock comments designed to make even the most intricate subjects look simple. Forget the in-depth analysis. Just give a gimmicky phrase to work with.



Politically savvy readers may yawn at the suggestion that slogans rule the Capitol. Just about all of us have heard and used clichés at one time or another. Sacramento is no exception. The new wrinkle, however, is the extent to which the marketing of ideas has been distilled down to its barest essence in order to achieve the desired result: passing or blocking legislation. Far from a rousing debate where all perspectives are carefully examined, some very complex issues are seemingly being reduced to glib sound bites. Does that make for solid policy decisions? You decide.

Admittedly, short, creative characterizations have always existed as a way of expediting legislation. Nonetheless, I must inform you that the situation in Sacramento is becoming acute. While the city's denizens are not yet in danger of adopting a vocabulary so abridged as to be exceeded by that of the cavemen, it does appear that ultra-abbreviated oratory is now a front-line political strategy. It's as if the prevailing wisdom dictated that the less you actually say about a topic, the

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more certitude you'll exude when you do say it, and the less folks will wonder whether you have even the slightest idea what you're talking about. Just utter the chosen mantra often enough, and it will soon be accepted as gospel. Especially if you can get all of your supporters singing in harmony on the propaganda bandstand.

I DON'T WANT to engage in sweeping generalizations, or make bold pronouncements that things are "always" this way or that. I might then fall into a form of sloganeering myself, something I want to avoid. In some situations, to be sure, the descriptive quips employed are at least a tad appropriate, and the people using them sincere and competent. It's part of what makes the sloganeering so powerful; that element of truth. It's what allows much highly-arguable legislation floating around the Capitol to steam ahead undaunted, carried along by slogans and clichés. More often than not, many of the pithy catch-phrases leading the way on these bills are at best of questionable applicability, and yet are commonly accepted unquestioningly by nearly anyone within earshot.

Lest you have any doubts, here are seven of Sacramento's most frequently articulated slogans. Some are usually limited to discussions of certain issues, while others seem to crop up everywhere. I believe these (or some variation of them) will sound familiar. I offer them with editorial commentary.

1) DO IT FOR THE CHILDREN. My personal all-time favorite, this is as close to a magical incantation as you get in politics. Whether or not a given piece of legislation does or does not hurt or help kids is usually beside the point. The first person to invoke this terminology in a conversation often gains the upper-hand, forcing an opponent to the defensive. If one side is "for the children," then where does that leave the other side? Who wants to be "against kids"? But there is a reason that airlines advise parents, in the event of an in-flight emergency, to put their oxygen masks on first, and *then* assist their kids. Assuming we haven't yet turned the government over to be run by toddlers, it would appear the best thing we could possibly do for our kids would be to leave the Constitution and Bill of Rights intact! Making sure future generations inherit a genuinely free America ought to top our list of child-friendly ideas.

2) IF JUST ONE LIFE IS SAVED, IT'S WORTH IT. Nifty as it sounds, I'd seriously like to know who came up with this one. Its entire premise collapses under even the most rudimentary scrutiny. If, for example, we banned all recreational car travel, we'd surely reduce highway deaths, but I don't hear many people lobbying for that kind of restricted roadway access. The fact is that in a free society, there is risk. Even in a best-case life scenario, with all the safeguards we can muster, people still can get hurt. Is it worth turning our whole world upside-down just to prevent one tragic, yet comparatively isolated, fatality? If we tried to follow the "just one life" philosophy consistently, I'm not sure anyone would leave their home.

3) GET "THEM" OFF THE STREETS. The "them" in this case could be any scourge *de jour*, but this line has taken on a life of its own in the gun control movement. It suggests that our streets are awash in firearms, and that only draconian regulation can stave off the massive carnage soon to befall us. In reality, only a minuscule portion of the guns circulating in America are ever used in a crime. Most of us will never see anyone but a member of law enforcement or the military or a sportsman outwardly carrying a firearm, let alone firing one on a public street. A handy, but misapplied, slogan.

4) NO RESPONSIBLE PERSON/BUSINESS/GROUP COULD OPPOSE THIS BILL. Do I detect a hint of arrogance? The implication is that your very opposition defines you as ignorant and irrelevant. Sometimes utilized in conjunction with references to supporters as "thinking people," implying that dissenters are simply not using their heads. While much in life is cut and dried, what constitutes responsible or irresponsible behavior is, on occasion, tough to define. Just because you may hold the minority opinion doesn't necessarily mean you're wrong. You *might* be one of the few who truly understands the issue.

5) IF YOU HAVEN'T DONE ANYTHING WRONG, YOU'VE GOT NOTHING TO WORRY ABOUT. This up and coming crowd-pleaser is best employed when attempting to pass a new law that impedes civil liberties. It's particularly relevant with all the national security proposals

(Please turn to page 31)

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Free Speech Requiem

A high school misplaces its copy of the First Amendment.

by Anne M. Hayes

ANDREW SMITH, a student at Marin County's Novato High School, wrote an editorial — "Immigration" — for his school newspaper, about illegal immigration, and is now confronting the new censorship our culture imposes on those who attempt to exercise their free speech right by expressing non-conforming points of view. His point, in a nutshell, was that individuals in this country illegally should either (1) take the trouble to follow our immigration laws and become legal citizens or (2) be thrown out.

Now, even those who agree with this theme could conclude, upon reading Mr. Smith's piece, that he was somewhat impolitic in conveying his message. He took the unfortunate tack of focusing on Hispanic illegal immigrants in a largely Hispanic community. But however much one might fault his editorial judgment, the poor judgment exhibited by the school district in dealing with this issue is a lesson in just how far society has strayed from its once noble ideas on the sanctity of free speech.

In response to Andrew's article, some students instigated a demonstration. They encouraged fellow students to walk out of class and stage a protest. Now this would have been all well and good had the students been exercising *their* right to voice a contrary opinion on the issue. But the protest was not primarily an expression of disagreement with Andrew's point of view; it was not

even directed at Andrew or the newspaper staff, but at the school administration. The "opinion" expressed by the demonstrators was that neither Andrew nor any other student should be permitted even to express his unorthodox opinion — in effect, that free speech should be forbidden by the administration, because a mob of storm troopers were demanding it.

The school's reaction is interesting. Rather than stay out of the debate, maintaining order and encouraging reasoned, civil discourse, it sought to quash the conflict — in a decidedly partisan fashion. It confiscated the remaining copies of the paper. The school principal and the district superintendent sent a letter home with each student apologizing for the editorial, saying it *should not have been printed.* The school district held public meetings at which students and their parents were invited, if not encouraged, to excoriate *Andrew* as a "racist" engaging in "hate speech." As a result of all this, Andrew was repeatedly confronted and threatened by fellow students.

In short, with no rational dialogue on illegal immigration, and even though the editorial hit a responsive chord in Novato High School's student body, the school simply catered to the rantings of an angry, intimidating crowd. It took steps to discourage Andrew from publishing more of his opinionated editorials in the school paper. The school now finds itself the defendant in a civil lawsuit in which Andrew is seeking to have a court declare that he has a right to express himself.

NATIONAL PUBLICITY about the case has brought Novato High School and its principal the kind of attention and controversy it sought to avoid by stifling Andrew. And, in a lesson on how this sort of intolerance breeds on itself, this attention has made the principal the object of the sort of vitriol originally heaped on Andrew. Reportedly, she has received personal e-mail threats from across the country. That is more than unfortunate; it is contemptible. But one cannot help contemplating the irony of her position: if our schools teach students

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Anne Hayes, a Pacific Legal Foundation attorney, is one of the attorneys representing Mr. Andrew Smith.

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that loud, aggressive protest, arguing no point except a demand for censorship, is not only appropriate, but effective, our school administrators can hardly be surprised when unreasoned and unreasonable personal attacks are employed to influence their public action.

TO THOSE who support Andrew's lawsuit, the issue now is the free speech right: individuals should be able to voice their opinions without government interference. But, in a strange reversal, Andrew's opponents now want to discuss the substance of his comments, although not to air, belatedly, the other side of that argument, but, in effect, to defend censorship as justified by the content of Andrew's speech, as though that content should bear upon the right itself. But what else should we expect? The schools have sought to impose student speech codes to quell racial or other tensions and the law itself has sought to quell disfavored speech by imposing liability upon schools for student-on-student "harassment," even when that harassment has not risen to the level of proscribable conduct. In other words, the schools and the law seem to have taken the indefensible position that free speech can and should be abridged if its exercise makes people unhappy.

To this is added the implicit argument that unpopular *thoughts* in effect equal intolerable *action* — as though, by expressing his opinion, Andrew was threatening to oust illegal aliens on his own. Now, it may be true that undesirable conduct is motivated by a point of view. But society's legitimate interest in deterring certain types of conduct is quite different from an *illegitimate* use of state power — censorship — to deter words and thoughts that *might* lead to punishable conduct. Muzzling unpopular views won't eliminate them, but it will foster an official hypocrisy and teach individuals to mouth politically-correct platitudes, censoring their words out of fear. Rather than increased harmony, the effect is a frightened people broadly unwilling to defend their rights, a phenomenon I encounter daily:

- Large landowners and developers refuse to sue or otherwise fight a government body violating their rights or employing corrupt tactics if it means their subdivision or permit application might get scotched. Building contractors play along with blatantly unconstitutional racial quotas and set-asides because city and county government contracts are too profitable to risk losing.
- Large corporations — oil, car, pharmaceutical, and other companies — donate vast sums to environmental groups to project a "green" image, although they know these funds will be used to finance litigation and regulation to make government policies even more hostile to their interests.

In short, many people are finding themselves at the mercy of a large, politically-correct shakedown operation. A very real threat of aggressive backlash forces them to sponsor ideas with which they disagree as the price of saving their livelihoods. Government holds so much power over so many aspects of our lives that self-censorship goes on almost unnoticed, subtly, insidiously influencing the fabric of our psyches until we cynically conclude this official hypocrisy is part of the game, just a cost of doing business.

Examples of this public hypocrisy abound: California voters overwhelmingly approved Proposition 187, seeking to deny to illegal aliens the right to taxpayer-financed schools, welfare, and health care. Voters also approved Proposition 209, seeking to ban race and sex preferences in public contracting, education, and employment. They passed Proposition 227, seeking to move non-English speaking students expeditiously into mainstream English classes unless

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their parents objected. Yet despite large majorities' willingness to state their views in the privacy of the voting booth, few public figures come out in favor of these measures; anyone who does is, like student Andrew Smith, labeled racist or worse. *Ad hominem* attacks silence or marginalize them. People who sympathize won't voice their thoughts, and the politically-correct line is assumed to be the majority view, despite voting evidence to the contrary.

Some may argue this is simply a matter of choice. But free speech should be just that: a freedom, a restraint upon the state, not a matter individuals must weigh in a cost/benefit analysis before exercising. If a man cannot speak out against his local planning commission because he may then lose his ability to build a home for his family, he has lost freedom of speech.

OUR RIGHT to speak is too frequently cast as the right to organize a protest rally, cuss in public, burn a flag, or send a nasty e-mail message. But in truth, the cases that celebrate such conduct as within our "rights" denigrate the central importance of the right to speak freely. Without freedom to engage the public, the right to air ideas and feelings fully, to let them flourish or whither on their merits through reasoned, civil debate without threat of retaliation, the freedom to burn a flag is meaningless. As a matter of pure expression, flag burning is as articulate as howling in the wilderness. It is a wholly inadequate substitute for freedom to *say* what we *think.* Unless we adopt a vision of free speech that encompasses not only the right to engage in intelligent discourse, but a duty assiduously to promote and defend intelligent discourse as the only proper means of resolving or progressing on important issues, we will continue to see the denigration of free speech into a "right" to scream and shout and call each other names. CPR

Abuse, not 'liberation'

Alan Bell's 21-year-old 'finding' has proven false and destructive.

by Carl Pearlston

FORMER KINSEY INSTITUTE research psychologist Alan Bell died May 13, 21 years after publication of his controversial study suggesting homosexuals are *born* with their sexual orientation and not influenced by childhood traumatic events.

He based this conclusion solely on oral interviews with 1,500 men and women in San Francisco in which he found little correlation between early family experience and adult sexual orientation. Since then his conclusions have become "conventional wisdom" expressed in the axiom "born, not made," repeated over the years by psychologists, social workers, homosexual activists, psychiatrists, researchers, pundits, and even Dear Abby, despite the absence of evidence of any biological genetic marker for homosexual orientation. The infamous 1992 LeVay study and the 1993 Hamer research paper are often cited to support the "born" view, but neither study produced evidence of a "gay gene," despite vast misleading media propaganda.

Nonetheless, in support of that view, the defining phrase "sexual orientation" was adopted to replace the earlier phrases "sexual choice" and "sexual preference," because neither conveyed the desired implication of biological determinism. As in Bell's study, most homosexuals will relate that they had always known they were "different," from their earliest childhood memories, thus proving to themselves that they were born that way. The homosexual state is analogized to that of racial and ethnic minorities, fixed and immutable, innate and inborn. In light of the Catholic Church's continuing problem with homosexual priests who seduce and molest pre-pubescent and adolescent boys, we should look again at those conclusions. This cannot be done without a certain trepidation, for questioning the regnant conventional wisdom on homosexuality is quickly dismissed by its defenders with the epithet "homophobic." This certainly inhibits any rational or factual discussion.

But the Kinsey reports have been famously wrong, in both their methodology and conclusions. Dealing only with the most

Carl Pearlston, a Southern California attorney specializing in alternative dispute resolution, is a member of the board of Toward Tradition.

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notorious, the widely-quoted Kinsey figure that 10 percent of the American populace is homosexual, the authoritative 1993 Guttmacher study found that only 1.1 percent of males considered themselves exclusively homosexual, and only 2.8 percent had engaged in same-sex sex. Similarly, in France, England, and Canada, less than 1.5 percent of males indicated they were homosexual. The deficiencies and errors of the Kinsey reports have been dealt with at length by Dr. Judith Reisman in *Kinsey: Crimes and Consequences.*

The Bell-Kinsey "born" view of homosexual origin has never been without its critics, who believe that environmental factors in early childhood, not genetics, are the major causative agents that influence one toward homosexuality. As Dr. Jeffrey Satinover stated in his 1996 book *Homosexuality and the Politics of Truth,* "... a certain genetic constitution may make homosexuality more readily available as an option, but it is not a cause of homosexuality." Dr. Charles Socarides' 1995 book *A Freedom Too Far* stated of boys who develop a homosexual pattern: " ... Something went wrong in their childhood, some disturbance in the formation of their sexual identity. ... most homosexuals have been abused as infants, or in their early childhood. ... homosexuality is caused by two factors: 1)an early disturbance in sexual identity formation, and 2) some form of childhood sexual seduction."

DR. FRED BERLIN, founder of the Sexual Disorders Clinic at Baltimore's John Hopkins Hospital, noted that a significant percentage of sex offenders were themselves molested as youths. This pattern of some sexually-abused boys going on to become sexual abusers in a cycle beginning and ending in sexual seduction has been observed and noted by many researchers. Dr. Socarides has cited many examples of seduction around the age of ten, that led to a life-long pattern of sexually compulsive behavior and seduction of male adolescents.

It was recently reported that about two-thirds of sexual-molester priests had themselves been the victims of sexual abuse as boys.

Earlier researchers such as Ollendorff in his *Juvenile Homosexual Experience and its Effect on Adult Homosexuality,* suggested that a male adolescent who shares his first orgasm with another male may be conditioned toward that orientation for the rest of his life; the effect of the seduction cannot be overemphasized. It was recently reported that about two-thirds of sexual-molester priests had themselves been the victims of sexual abuse as boys. The Rev. Stephen Rossetti, a psychologist and sex abuse consultant to the U.S. Conference of Catholic Bishops and head of the St. Luke Institute, said: "It's a vicious cycle."

One of my legal cases involved a middle-aged homosexual man who acted as a senior brother or father-figure to many young adolescent boys in his neighborhood. He invited them over to talk sports, eat, watch movies, play games. His home was a regular meeting place for a group of boys. It seemed a pleasant, comfortable, secure environment, but was actually a haven for the same sexual seduction he'd experienced as a young boy.

IN CLASSIC seduction technique, he would develop a position of trust in which the boys would try to please him, and the games turned to sex. Predatory homosexual priests have similarly targeted adolescents for seduction: boys who look up to them as safe authority figures to be relied upon to tell them what is right and proper to do, men the boys will try to please. Happily, most boys from healthy family environments free of sexual abuse or sexual identity confusion do not fall into the cycle if they are molested.

Much has been written of late clarifying the distinction between those who are sexually attracted to and desire sexual relations with very young pre-pubescent children, and those who are attracted to older, near-pubescent children or adolescents. The former are properly called pedophiles, while the latter should be termed ephebophiles, even though in popular parlance the term pedophilia is used to cover all age groups. The distinction is important, because pedophilia is deemed an incurable mental illness — a sick condition having nothing to do with one's sexual orientation — whereas same-sex ephebophilia is seen as normative by a part of the homosexual community.

If, as "conventional wisdom" asserts, homosexual orientation exists from birth, it then lies latent,

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waiting to be awakened at the proper moment. That is exactly the view of most homosexual activists. As Larry Kramer wrote in *The Making of an AIDS Activist,* "... where children do have sex with their homosexual elders ... I submit that often, very often, the child desires the activity, and perhaps even solicits it." The homosexual magazine *Guide* argued in 1995, "Instead of fearing being labeled pedophiles, we must proudly proclaim that sex is good, including children's sexuality ... we must do it for the children's sake."

In the view of activists, it is a positive act of goodness to liberate the child's native homosexual orientation at the earliest age possible. To that end, sex education on homosexuality needs to be done at early grade levels and continued through the educational system to facilitate the emergence of the homosexual sexual identity. Therefore, in accord with this "conventional wisdom," children who are unsure of their orientation should be encouraged to experiment so that the true inborn state might be realized. And all children should be encouraged to view homosexuality as a normative, even desirable state, with homosexual role models provided and dissent dismissed as "hate speech" or homophobia. Inevitably, children are seduced and recruited into homosexuality, in conformance with the "conventional wisdom."

Steve Baldwin's new study, "Child Molestation and the Homosexual Movement," to be published in the *Regent University Law Review,* and reported by Jon Dougherty at WorldNetDaily.com, shows that homosexuals molest young boys at a rate vastly higher than heterosexuals molest young girls, even though the absolute number of heterosexual molestations are greater. This is the same conclusion of Dr. Satinover, who put the rate of child molestation as more than three times more common among homosexuals than heterosexuals, taking into account that heterosexual males outnumber homosexual ones by roughly 36-to-one. David Bresnahan at WND reported on Dr. Judith Reisman's and Dr. Eugene Abel's research indicating a molestation rate of five-to-one for homosexuals compared to heterosexuals. Baldwin notes one study, "Archives of Sexual Behavior," in which 86 percent of child abusers described themselves as homosexual or bisexual.

In short, child sexual abuse is far more common among homosexuals than heterosexuals, and the homosexual culture actively promotes sex with children, terming it "Male Intergenerational Intimacy." Baldwin notes that the *Journal of Homosexuality* had a recent special issue on this subject, with one article stating that parents should look upon the pedophilic man who "loves" their young son "not as a rival or competitor, not as a theft of their property, but as a partner in the boy's upbringing, someone to be welcomed into their home."

This is certainly not to indict all homosexuals. Ephebophiles and pederasts are typical of only a segment of the homosexual community, but one cannot deny that the historical image of ancient Greece, where adult males took adolescent boys (*ephebi)* as lovers, plays a large role in the homosexual world-view. Many homosexuals have themselves criticized this aspect of homosexual culture, in which organizations such as NAMBLA (North American Man-Boy Love Association) espouse pedophilia with their slogan "sex before eight or else it's too late."

WHILE SEX with prepubescent children is rejected by the larger public, the idea of homosexual adolescent seduction is seemingly not unpopular, if the hit stage production "The Vagina Monologues" is any guide. A girl of 14 is seduced by an older woman, to whom the girl gives thanks. This is not liberation of an inborn sexual self. It is child sexual abuse; it is astonishing to me that audiences applaud it. That they do so is tribute to the power of the "born, not made" axiom, and the minimization of the role of sexual seduction in forming sexual identity and orientation.

That axiom has had a pernicious influence on sexual mores in this country in the 21 years since Alan Bell's study was published. Few could argue its effect on society has been desirable. It's time for another evaluation. CPR

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COVER ARTICLE

IN THEIR OWN WORDS

Bypassing handicappers, newsmen, and spinmeisters, gubernatorial rivals Gray Davis and William E. Simon, Jr., discuss issues, politics, and their campaigns.

With California voters this year enjoying a genuine choice between Republican and Democrat gubernatorial candidates based — for the first time in more than a decade — on *issues*, *California Political Review* Editorial Board member George Neumayr asked Republican Bill Simon to discuss the major differences distinguishing him from Gray Davis, his ideas about governing, and his vision for California.

CPR: What will be the defining issue of the campaign?
Simon: I would say it's Davis's failed track record. Governor Davis has run many times in his career. He's only run once for re-election. He'd run every other time for something as a step up or a lateral step, you know, something different. He could always promise people: "You know, when I get there, I'll do this." But now, he's got to say: "here's why we careened from crisis to crisis. It wasn't my fault. It was so-and-so's fault."

That's why I think his popularity rating right now is very low. People think he has to take at least some blame for the crises we've encountered: the budget, the most recent crisis, electricity, last year's crisis, or a failure to improve education materially. We have a water crisis right now. People in the Central Valley and up north are concerned about it. Once every ten or 12 years we have a drought. We're probably due sometime in the next three

(Continued on page 19)

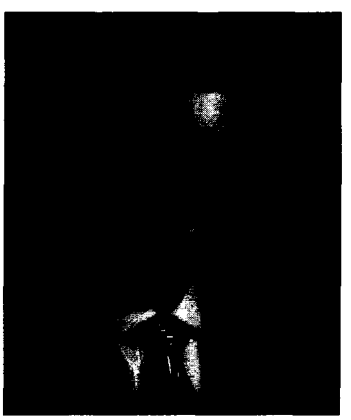
California Political Review invited Bill Simon and Gray Davis to be interviewed for this feature. Simon accepted, but the governor's staff, after our request was submitted, never scheduled the interview. We therefore offer readers Gray Davis's own words on topics we would have asked about had an interview taken place. The governor's comments were compiled from the following publicly available sources:

State of the State address, January 8, 2002
State Democrat Convention speech, February 16, 2002
Primary election night remarks, March 5, 2002
Davis Administration Budget Revision release, May 14, 2002

On the Defining Issues of the Campaign

(March 5, 2002, Primary election night remarks):

Bill Simon is a true-blue, think-tank conservative. I am a practical problem-solver. I respect the sincerity of his beliefs. But I believe many of his ideas are out of step and out of touch with most Californians. We need to continue moving California forward, not backward — and certainly not to the right.



For example, I have always strongly supported a woman's right to choose, and am proud to have the

(Please turn to page 23)

Interview conducted and speeches compiled by
George Neumayr

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or four years. I'm going to meet with an agricultural board a little later today in Ventura County, and that's what they want to talk about, not surprisingly.

CPR: In Davis's shoes, how would you erase the budget deficit?

Simon: Last September we proposed a plan to balance what was then estimated to be a $13 billion deficit. We came up with almost $11 billion of government waste to cut. But we came up with a way to stimulate the economy to the tune of about $2 billion by virtue of a capital gains [tax] reduction, reduction of regulatory burdens, and streamlining workers' compensation.

Now the deficit is estimated to be $23.6 billion. Some people say we should come up with a plan for another $10 billion. My response? First, if Davis had agreed to what we had proposed eight months ago, we wouldn't have a $23.6 billion deficit. He came up with a plan that was basically $7-$8 billion in cuts. He still hasn't cut the government as much as I had proposed. I don't have a plan to fill that $10 billion gap. I don't think I will have one. I'd be happy to give you some ideas: for example, I wouldn't touch K-12 education or suspend Prop. 98. I would not cut public safety. I would take a look at state operations — that's about $20 billion. Given spending growth over the last several years, there's plenty to look at.

CPR: Tax increases?

Simon: No. I'm against tax increases. I don't mean to waffle. It's tough to say never. But no, I will not raise taxes. I think raising taxes is a good way to strangle people's opportunity, to strangle business.

CPR: What, principally, is causing the ballooning deficit?

Simon: Davis says it's a revenue problem. I think it's more a spending problem. Revenues have declined, there's no question. But the problem is that we allowed spending to increase on the hope the revenue base would *not* decline. It's a little like being in a business where income varies year to year. You have a great year, and so you go ahead and buy a big house you can afford on your income *that* year. But, knowing your income wouldn't be the same *every* year, that would be foolish.

That's what Governor Davis did, in effect. Everybody knows state government's revenue stream is volatile, because it is based on personal income tax revenues, which go up and down depending on how the economy is doing. Sometimes the economy slumps; sometimes it booms. So you shouldn't spend that money — taking out a mortgage on your house, in effect. If you spend that money on on-going obligations, in a year or two, when revenues declined, you would have to go to the people you made promises to and say, "I'm sorry. There's just not enough this year to finance the programs we promised you last year." That's what's going on now. Davis is making some painful decisions and people are saying "Oh, geez! Why are you cutting me? Why not cut somebody else?"

Well, this is *his* exercise. He's governor. I'll be happy, when I take the oath of office, to finish fixing the problem Davis created. My guess is he will not have fixed it. Even if he balances the budget, he'll do so with a series of one-time adjustments that won't fix the underlying structural problem.

I think the best way to govern is to reward hard work, to stimulate people to produce, to reward success; as opposed to punishing hard work and punishing success — which is what [Democrat Senate Leader] John Burton wants to do with higher tax rates on upper income people. I can understand the concept behind that, but I don't agree with it. I believe people should be encouraged to get into that top bracket and not be punished once they get there. This is not a system designed to help only the rich. It's designed to help everybody, to help them move up the ladder, to make money.

CPR: Spending under Davis has increased 36 percent. What level of spending increase would you justify?

Simon: Over the last 25 years, revenues have increased 8 percent per year on average. I think any time you're increasing expenses at a rate greater than 8 percent, you have to say to yourself, "I will have to be disciplined at a later point." It's as if you say to yourself, "Okay, I'll eat this piece of cake today, and I'll go on a diet tomorrow." Generally speaking, you often won't go on that diet the next day. That's the problem here. Suppose tax revenue is up 15 percent. Options are up. It's a booming economy. They say: "Okay. I'll spend 15 percent more this year." Well, you have to know that some years it's 15 percent, some years 2 percent, but it averages 8 percent.

If someone was going to run a business for the long haul, someone, say, 45-years-old and thinking they would hand it to their children and so would operate it

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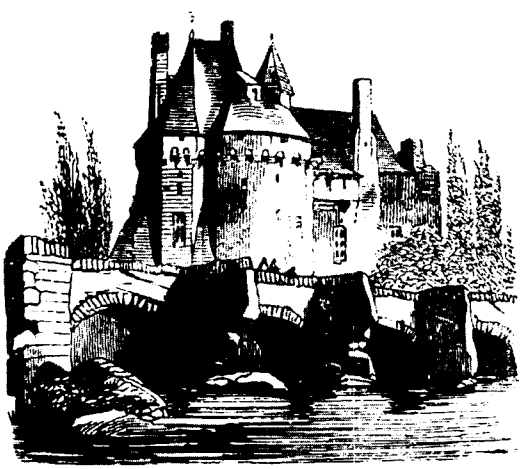
properly — if, in year two, or three, or four they had a great year, they wouldn't spend all that money. They'd put it away. They'd say, "Some years it won't be so good." They'll save it for those years.

That's what should have happened here. I've advocated a 6 percent working capital reserve because the volatility I spoke of on average is about 6 percent. With peaks and troughs, it's probably 20 percent. This way you know you have covered yourself. That's what should have been done. Unfortunately, it wasn't.

CPR: So, should spending increase 8 percent each year?
Simon: Eight percent on average. Obviously, this year expenses can't increase 8 percent because you have no reserve. This year, you can't increase at all. When I take office — God willing, who knows where I will be? — but let's say I'm in eight years. In that period of time, we'd probably go through an entire cycle. If you come back at the end of my eight years and say, "I interviewed you in May 2002 and you said you would stick to an 8 percent rule, but over the eight years, you were at 12 percent — that's wrong," I would be hard pressed to disagree with you.

CPR: If, in a few years, you found yourself in the situation Davis faced at the beginning of his term: a surplus. Would you consider a tax rebate?
Simon: Yes. Absolutely I'd consider it. I think you could do one of two things here: return it to the people, or create a reserve. Both of them are designed to do kind of the same thing.

CPR: What's your preference?
Simon: Well, I'd like to do both. I think it's possible to do both. I can see that people are entitled to get their money back, and that's fine. But, I can also see that the nature of this government is such that you really do need a reserve. It's just the right way to run this business. If I thought, in a perfect world, that politicians would have discipline, I might be okay with the rebates totally. Forget the reserve. But that's not human nature. It's not unique to politicians, it's human nature. It's a bit like that old real estate developer's prayer. "Dear Lord, please get me one more up-cycle. I promise I won't overthrow it this time."



CPR: How does your educational philosophy differ from Gray Davis's?
Simon: I would say there are two principle differences. One is local control, as opposed to big brother in Sacramento. Second is accountability.

I don't think Governor Davis has moved strongly enough to increase the number of charter schools, to increase the number of magnet schools, and to reduce the number of mandates coming from Sacramento. On the way here this morning I dropped my children off at school. We passed the charter school my son just graduated from. It's a great example of parental involvement and a great example of teacher involvement. You see it in how they beautify their campus, how they change their curriculum to meet the needs of particular kids. It's a school energized by local control. And I just don't see Governor Davis making enough moves in that direction.

The second thing is accountability. I think accountability needs to have real teeth in it. I think children like order, they like structure. They like organization. Sometimes they say they don't, but they do. And the problem is now that kids can get away with murder. There are no consequences. It's not a system that gives kids a quality education so they are prepared to meet the challenges of the 21st century.

I just don't see the commitment of the Davis administration to that. Just last week, a study was released showing that one out of every three classrooms in our state does not have enough textbooks for the children. One out of every four classrooms has rats, or mice, or cockroaches. That's shameful. It's not a matter of more money. Last year, we all invested $52 billion in our educational system. It's not a matter of more money. It's a matter of channeling the money in the right places.

CPR: Davis thinks the political Achilles's heel of any Democrat governor is law and order, so he's made a great effort to present himself as solid on those issues. Has he been, in your opinion?
Simon: Well, the crime rate fell until recently. It's been falling nationwide. I'm not sure Governor

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Davis really can take credit for that. Lots of things happened before his administration, such as the Three Strikes policy, which he had nothing to do with.

Sometimes you're in the right place at the right time. He benefitted from the strong economy. Crime rates generally decline in strong economies. Now the economy's softened and the crime rate's going up. I would say I don't think he's really done anything extraordinary in this area.

CPR: Have any of Davis's judicial choices weakened the system? How do you evaluate his appointments?

Simon: I would say it's basically okay. I have only one problem with his picks: that he has a litmus test. I think that's inappropriate. He has said he is very proud that his 183 picks are "pro-choice." I think that's a shame. I think so not because I'm pro-life, but because you shouldn't have a litmus test for a judge. You have to make sure that your judges are good jurists: that they're balanced, that they interpret the law strictly. To say, "I have a litmus test. If somebody's pro-life, there's no way he can be on the court," that's inappropriate.

Davis campaigned against Al Checchi on the slogan 'Experience: money can't buy it.' My response is: Gray Davis has experience you wouldn't want to pay for.

CPR: Davis says the two reasons Californians shouldn't vote for you are that you lack experience and that you're outside the Californian mainstream and too conservative for the state. How do you respond?

Simon: Gray Davis campaigned against Al Checchi on the slogan "Experience: money can't buy it." My response is: Gray Davis has experience you wouldn't want to pay for. He pictures himself as the best-prepared governor in history. Look at what we've had: crisis after crisis after crisis. I'm not sure we really want the best-prepared governor in history.

Let's look at some other examples. Look at President Bush. When he ran for governor of Texas, he had never held public office. Rudy Giuliani had never held elective office when he ran for mayor of New York. Ronald Regan had never held public office when he ran for governor of California. A rule that you can't run for governor, or for mayor in the largest city in the nation, if you have never run for office before would have deprived us of three of our greatest leaders.

You have to look at the type of experience a person's had. Politicians don't have a monopoly on good ideas or on leadership. I think I've exercised a lot of good leadership in my career and I think I've come up with some good ideas, one of which was running for governor. I am quite comfortable that my type of experience — problem solving, building — is exactly what we need right now. We need somebody with a vision for a better life for all Californians, of a place where kids get a good education, where our roads and our water and our power are reliable and affordable. A place where our budget doesn't require higher taxes every year because the governor lets things get out of hand. That's the kind of person I am. I try to anticipate issues. The defining characteristic of the Davis administration is that he lets things get out of hand. Electricity becomes a crisis. The budget becomes a crisis. Water is now a crisis. Our schools are a mess. He's been sitting on a series of accidents waiting to happen. Some have happened. Some are in the process of happening. Some will happen. But Governor Davis is not somebody we can trust. That's the problem.

CPR: Is Gray Davis outside the Californian mainstream?

Simon: Let the people decide. We'll get our message out, and let the people decide. Having now had the privilege of campaigning for 16 months, I think people want somebody to focus on the economy, on schools, and quality of life. They want to know: "What are you going to do for me? How are you going to help me? How are you going to make our state the place where we're all proud to be?" It's not a matter of focusing on one issue or another issue. Few voters are one-issue voters. Most want to live in a convenient, affordable fashion. That's what I stand for.

I think that's what Ronald Regan did. The people say Reagan was a reasonable-sounding person. He didn't back off of his ideals. Look at George Bush. He didn't back off his, either.

CPR: Is Gray Davis to the left of Californians on the issue of abortion? Most Californians do not support partial birth abortion. Gray Davis does.

Simon: And he is opposed to parental consent for abortion.

You know, Gray Davis starts out by saying, I stand for a woman's right to choose; my opponent does not. That's

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what he said about Lungren. The facts are you can't really disturb a woman's right to choose. Davis is creating symbols. It is a good campaign tool. Davis is a good campaigner, but he's a bad governor. I'd rather have a mediocre campaigner and a fine governor.

CPR: Will you spend as much on TV and radio advertising as Davis?
Simon: If we can raise it. Whether we spend dollar-for-dollar, I don't know. I kind of doubt it. I would assume that Gray, given his prodigious fund-raising, is just going to keep on going. This man was the most brazen fund-raiser I've ever seen, in business or politics. Right in the middle of a period when people were really picking up on what he's doing, he has the nerve to collect money from the pipe-fitters at his golf tournament. He probably pulled in $600,000 that weekend. It's astounding, really. It's just an example of an administration that looks like it's purely a pay for play administration.

CPR: Do you believe he's used state government as a fund-raising tool?
Simon: The appearance is so troubling.

CPR: Will more come out?
Simon: I'm assuming that more will come out.

CPR: What about the report that your family's firm paid a 10 percent fine to the government?
Simon: I was a minority shareholder in that firm. The fine was for a bookkeeping violation. Apparently, someone filed the wrong form. But if they had filed the right form, there would have been no violation. Davis tried to turn that into a pay for play. It's just not even close. So I can't predict everything Davis will attempt to distort. I don't have to distort anything: just focus on his track record. His aides keep saying, "There is no connection between public policy and contributions." It reminds me of that Edgar Allen Poe poem that quotes the raven. It's like "Craw, craw!" How many times are they going to say this? It is beginning to be a joke. "There is no connection. There is no connection. There is no connection." I begin to wonder if perhaps there is no connection between Davis and the California people, other than a financial connection.

CPR: Press reports suggest Davis will not only shake down teachers, he'll shake down students. He asked the students at UC Berkeley for campaign contributions.
Simon: Yeah. A hundred dollars. He is taking their lunch money. Some people have referred to him as the coin-operated governor.

CPR: Contradicting several polls that show you leading the governor, a recent Field poll — the one the media seems to think obscures all the others — has you behind. But even that poll showed Democrats and Independents view Davis unfavorably. Are you gaining among Democrats and Independents?
Simon: We're just campaigning hard. We believe our policies appeal to cross-over voters: education and jobs and lower taxes. I don't know anybody — conservative, moderate, Republican, Democrat — who wants to pay more taxes. I think when you talk about jobs and about education, you're resonating with a broad base of people. On top of that, we're building a grass roots effort that will appeal to all those people.

CPR: Have any Democrats or Independents endorsed you?
Simon: Not yet. We're working on it.

CPR: How about the Hispanic community? Are you making any inroads there?
Simon: Yes, we're making some good inroads there. We have an outreach program that's doing great things. We have a broad base of support from the Latino community.

CPR: You and Davis are both Catholics. Gray Davis is just blatantly in favor of abortion and you're pro-life. Will this be an issue among Catholics?
Simon: I don't think so. I think it's a private issue for those people. I've been baptized a Catholic and go to church frequently. My faith's important to me.

CPR: Do you think you'll get the Catholic vote?
Simon: We're working on it. We did well in the primary. I assume we'll do well in the general. Like any other community, you have to reach out, make sure you get your message out. That's a natural place for us to do well, that's for sure.

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CPR: Your campaign seems relatively quiet now. Are you repeating your early primary campaign strategy: canvassing the state, obtaining endorsements — retail politics?
Simon: That's what we're doing now. We're driving a broad-based campaign. We're really running hard, campaigning pretty much every day.

CPR: Are you as confident about the general as you were about the primary?
Simon: Actually, more confident. The primary was my first race. It was hard to know if I was going to be a reasonable candidate, hard to know if Dick Riordan would run away with it. Now it's just Gray against me. I feel it's a more ascertainable challenge. It is a mountain that we can climb. I don't want to appear overconfident, but I'm pretty confident we can do it.

CPR: Do your polls still show you ahead?
Simon: Yes.

CPR: By seven or eight points?
Simon: Yes, but it depends on the poll. I've only seen one poll where I'm behind and that's the Field Poll. In every other poll I've been up. A CTA [California Teachers Association] poll, taken maybe a couple days before the Field Poll, showed me up by four. But this is all background noise. The most important thing is that we've got to campaign hard, reach out to people, go on TV. We're doing all the things we have to do to run strong.

CPR: Some commentators say you're defining yourself simply as the man who's not Gray Davis. But voters will want a clearer idea than that of Bill Simon. What image conveys the real image of you?
Simon: In my career I've been a problem solver. I've built businesses and built charities. I've solved problems with charities. I was a public servant as a prosecutor — you solve problems. I hope I'm seen as someone who gets things done, someone willing to look at all the cards on the table objectively and not one playing politics as usual. I'm doing this to try to make life better for all Californians, to bring a message of opportunity and hope and freedom for Californians. The way you get there is by less government, by creating jobs, by stimulating business, by making sure our kids learn so they'll be ready for the challenges of the 21st century. That's my vision for California. I think it resonates in the minds of people.

So, yes: I'm not Gray Davis. I'm Bill Simon. CPR

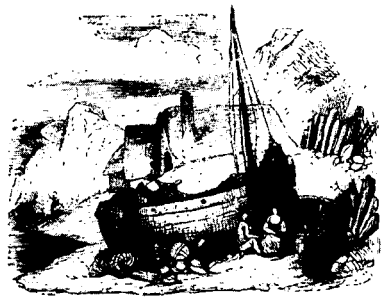
Davis

(Continued from page 18)

support of Planned Parenthood and the California Abortion Rights Action League. Bill Simon is against a woman's right to choose, and is endorsed by the California Pro-Life Council.

I believe in sensible gun control, and signed into law the strongest gun-safety laws in America. Bill Simon earned an "A" from the National Rifle Association and is endorsed by the Gun Owners of California.

Throughout my entire career, I have opposed vouchers, which would take millions of dollars out of public education. Bill Simon supports vouchers — and has even proposed letting private, for-profit companies take over some public schools.



I strongly oppose a return to energy deregulation. I fought hard to win federal price caps on electricity and established the California public power authority. Bill Simon wants even more deregulation, wants to eliminate price caps, and abolish the public power authority. Simply put, he trusts the energy companies — I do not.

I believe we must continue protecting our coastline, our air, and water. Bill Simon has proposed weakening California's environmental quality law.

I believe government's purpose is to protect the public interest. Bill Simon wants to privatize everything in sight, including electricity, our freeways and even our water supplies.

On the California Budget

(State of the State address, January 8, 2002):

In good times, we made smart investments in California's future. Still, even with our budgets flush — and well before the sharp decline of the technology sector and the attacks of September 11 — we were always careful with the taxpayers' dollar.

• We invested a substantial portion of our surpluses into one-time investments — such as transportation — in-

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stead of ongoing spending ....

• We established a $2.6 billion reserve in the current budget year — the largest rainy day fund in 23 years.

• And I exercised my veto authority to cut $7.4 billion in otherwise worthy proposals over three years.

• I also suspended allocation of $2 billion in the current budget year, cut operating expenses by $150 million, and ordered an immediate hiring freeze ....

Here are the basic principles I used in formulating the budget:

First, my commitment to public education remains resolute.

Let me be clear: education will be protected above everything else in my budget. For three years in a row, we've increased our investment in K-12 education and met or exceeded the Prop-98 guarantee. This year, once again, I intend to invest more in schools in 2002 than we did in 2001 and we will meet the Prop-98 guarantee. That is how progress is preserved. I have asked you to reduce some of the budget augmentations we made last year. But I will fight to protect those investments vital to the classroom itself, where teachers teach and students learn.

Second, we will maintain our full commitment to public safety ....

Third, I will expand our commitment to children. I'll be proposing an expansion of safe and affordable child care to serve 100,000 more children ....

Fourth, I am opposed to balancing the state's budget on the backs of local government .... So I will continue the state's commitment to repay vehicle license fees to local government.

Fifth, I will not advocate raising taxes. That would further burden individuals and businesses struggling to stay afloat in these difficult economic times.

These are the principles that guided me in preparing the budget. And, even with the cutbacks I will propose, California will be much stronger than it was just three years ago.

Fifth, I will not advocate raising taxes. That would further burden individuals and businesses struggling to stay afloat in these difficult economic times.

On the "May Revise" Budget*

(From a Davis Administration May 14, 2002, Budget Revision press release):

"I've proposed a responsible, balanced budget," Governor Davis said. "Closing this budget gap has been an extremely difficult process. But the people of this state elected me for exactly this reason: to make the tough decisions and that's exactly what I've done ....

"A full third of our plan — nearly $8 billion — comes from program reductions," the Governor said. "These cuts were extremely painful but they were also absolutely necessary. New revenues are a small part of this plan, but they were necessary to avoid completely devastating key programs.

"More than anything else, this budget reflects a commitment to our children and their future," Governor Davis said. "Even in the hardest of times, we cannot and will not turn our backs on the progress our children have made.

"Education remains my top priority," Governor Davis said. "I'm pleased that even in these difficult times we have met the Proposition 98 guarantee."

According to the governor's release: "The $23.6 billion shortfall stems primarily from a dramatic $19 billion drop in revenue. Some 90 percent of this drop can be attributed to the fall-off in capital gains and stock options."

On Education

(State of the State address, January 8, 2002):

We've recruited 15,000 new teachers for our schools, and 20,000 college students have taken advantage of our incentives to become future teachers.

100,000 teachers have received rigorous, world-class training under the auspices of the University of California.

More than 1,300 teachers have met the high national

*In May, the governor's office released a revised budget proposal calling for General Fund spending reduced $393 million [0.5 percent] from the current year's budget and for more than $5 billion in tax increases over two years.

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standards for prestigious national certification — a ten-fold increase in three years.

Last year alone, in part because of our incentives, 516 California teachers became Board-certified.

More than 200,000 teachers have taken advantage of our teacher tax credit ....

100,000 students have earned governor's Merit Scholarships, and nearly 200,000 will receive Cal Grants based on merit and need — the most ever at one time. We take pride in all these numbers, but here's the one that counts the most: test scores have gone up three years in a row.

On Law and Order

(State of the State address, January 8, 2002):

.... we've put more than 3,000 additional cops on our streets. And provided nearly 300 law enforcement agencies with state-of-the-art equipment and access to new crime labs.

On his First Term

(State of the State address, January 8, 2002):

Although unemployment has risen after September 11, California has created 900,000 new jobs in the last three years — more than any other state in America.

When I took office in 1999, California was the world's seventh largest economy. Today — because of the extraordinary ingenuity and industry of Californians — we are the fifth-largest economy on the planet, surpassing both France and Italy ....

More than one million California children have received health insurance who lacked coverage just three years ago. Today, the Healthy Families Program covers 500,000 kids — a 10-fold increase since I took office ....

Nearly a quarter million Californians have been served by our new Department of Managed Health Care — the first such patient protection agency in any state. With the help of that Department, 40,000 Californians have taken on their HMOs — and won. They received the treatment their HMO denied — without having to go to court ....

Our aggressive crackdown on Medi-Cal fraud has already saved $228 million in taxpayers' money. By this time next year, it will have saved half a billion ....

600,000 families have benefited from our child-care tax credit.

We've made the largest investments in history in clean water, land conservation, and coastal protection, while cutting state park fees in half.

An unprecedented $6 billion in transportation improvements has been allocated by the Transportation Commission.

$1.3 billion has been designated for local streets and roads ....

we have cut taxes by $4.3 billion ....

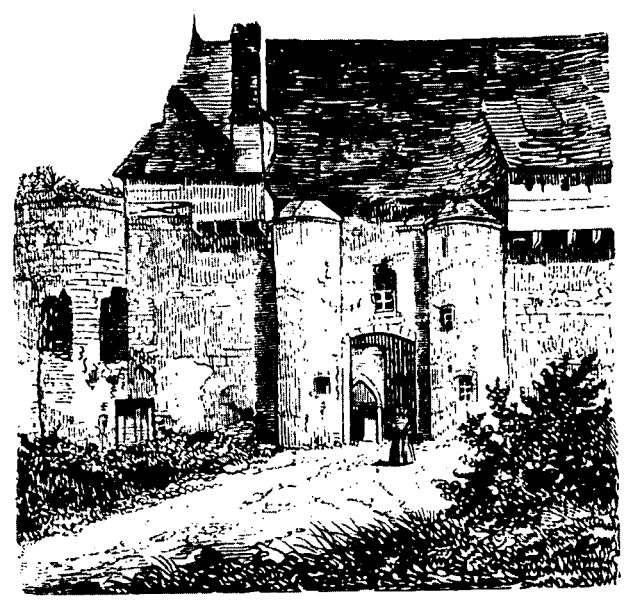
On the Energy Crisis

(State of the State address, January 8, 2002):

The flawed deregulation scheme we inherited backfired catastrophically. We'd experienced the first forced blackouts since the Second World War. Experts were predicting 32 days of blackouts over the summer. We were 100 percent exposed to the wildly fluctuating energy market. Merchant generators — and even some of our own municipal utilities — were gouging us unconscionably. Manufacturing firms and other businesses were threatening to leave California because of the disruption of power.

But, together, we confronted the challenge, and kept the power flowing to our homes and businesses, cities and farms. As always, the people of California deserve the credit. They responded to our "Flex Your Power" campaign, conserved in record numbers, earned rebates in historic amounts, and helped reduce our energy demand.

But we also built more supply in record time. We li-



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censed 17 new major power plants and 12 new peaker plants. Eleven of those plants were built and put on-line by the end of last year, including the first three major plants in 13 years. In 2001, we brought more new power on-line than in the previous 12 years combined — enough to power two million homes.

Against all odds, we also successfully pressured a reluctant federal government to finally restore price caps and consider refunds. We tamed the spot market with long-term contracts. And we established the California Power Authority to help ensure our energy future.

California has the most technologically advanced economy in the world — and it lives or dies on a stable supply of electricity. Our high tech industries cannot survive the lights flickering, much less going out.

Make no mistake: My overriding imperative was to ensure California had reliable electricity. By doing so, we protected public health and safety, prevented a meltdown of our economy, kept business from leaving the state — and even created new jobs through expansions that were put on hold earlier in the year. Now that the supply of natural gas has stabilized and the price has fallen, we are renegotiating some of the long-term contracts to ensure ratepayers a reliable supply of electricity at less cost.

But the recent collapse of Enron is another sign of the extreme volatility and uncertainty we still face in the deregulated energy sector. We must continue to conserve. We must continue to build more plants, cleaner plants, more-efficient plants to replace our aging facilities. We must maintain our vigilance to protect our economy and our citizens against further energy disruptions.

What a Difference a Democrat Makes

(California State Democrat Convention, February 16, 2002):

But let me tell you something else: it has made a huge difference — a huge difference — that the men and women leading the governor's office, the state Senate and the state Assembly are all Democrats.

Hear me my friends, if Democrats had not been leading the charge, California would not have the strongest domestic partnership laws in America ....

We would not have protected the last private stand of old-growth Redwoods in Northern California.

We would not have college scholarships for every qualified high school graduate ....

We would not have the eight-hour day, the restoration of the prevailing wage, a higher minimum wage. Nor would we have a well-deserved increase in Workers Compensation benefits for injured workers .... Democrats made all this possible, my friends. And we'll continue to make that difference after November. Because the governor, lieutenant governor, attorney general, treasurer, controller, insurance commissioner, superintendent of Public Instruction and — once again — secretary of state will all be Democrats. And the Assembly speaker and Senate president pro tem will still be Democrats.

Now why is that? Because the people of California understand the Democratic Party is the Party of fairness and opportunity, of social justice and upward mobility. The Party with values they share. The Party that governs by those guideposts and yet still acts as a responsible steward of the public trust ....

A Message To His Republican Critics

(California State Democrat Convention, February 16, 2002):

You might think it's fun to castigate the governor, guys. But you can't govern the fifth largest economy in the world with warmed-over platitudes. You can't lead a state of 34 million people with old ideas and vague generalities. Talk is cheap.

And, to paraphrase a famous movie, your 15 minutes are up. I'm Gray Davis, I am the governor. And — whichever one of you emerges from the Republican primary — you're in for the fight of your life.

My friends, it is a great privilege to be governor. To have the opportunity to improve the lives of the people of this great state. I wouldn't trade it for any job on earth.

But being governor of California is also where the rubber hits the road.

It's a big job that requires tough choices. Choices that won't make people happy all of the time. So, to my three opponents, I say this: if you want this job, you'd better step up and spell out your programs. The voters of this state will not take you seriously until you offer them serious, serious proposals ....

My friends, the true measure of leadership is spelled out in the names and faces of all the people whose lives you've helped make a little bit better.

A governor can't fix every school, or cure every disease, or prevent every crime, or ease every traffic jam. But he should try .... CPR

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One Word of Truth

In *CPR's* May/June 2001 issue, Mr. Bemis described the academic fraud that was once the venerable Jesuit-run University of San Francisco. Herewith, an update.

BY JAMES BEMIS

Necessity, it is said, is the mother of invention, and authentic Catholic colleges are needed now more than ever. Thus, out of the troubles gripping the once-Catholic University of San Francisco has arisen Campion College, a new college based an old idea: that Truth exists, and man can know it.

Campion College (*www.campion-college.org*) will open this fall as a two-year institution with an integrated liberal arts curriculum based on study of the great books. Campuses will be located in San Francisco — just a block from USF — and Washington, D.C. It is designed to prepare students to transfer into a four-year university and offers a single degree in Catholic Hu-

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manities. Each campus is expected to start with 15 students.

Students will learn from the most powerful thinkers of the past, studying Homer, Plato, Aristotle, St. Augustine, Dante, St. Thomas Aquinas, and others. Modern writers, including Tolstoy, Dostoevsky, Herman Melville, and John Henry Cardinal Newman, will also be read. Joining phenomenally successful orthodox Catholic start-ups Thomas Aquinas College in California, Virginia's Christendom College, Ave Maria law school in Michigan and others, Campion College promises to be a bright spot in the overall dreary state of American higher education.

SHIVERING HERODS

One would think an educational enterprise with such modest goals and numbers could pose no threat to anyone. But one would be wrong. In fact, the creation of Campion College has sent shivers of terror through the liberal Catholic educational establishment, and some powerful Herods are determined to strangle this holy innocent in its cradle.

A little background: In February 2001, USF's new president, Jesuit Father Stephen Privett, all but abolished the St. Ignatius Institute, a widely-respected great books program within USF known for its faithfulness to Catholic teachings. With stunning swiftness, Father Privett moved to end the Institute's ability to function as an innovative, quasi-independent

One would think an educational enterprise with such modest goals and numbers could pose no threat to anyone. But one would be wrong.

educational entity within the university. Father Privett fired SII's longtime administrators, John Galten and John Hamlon, and subsumed the program in the misnamed Catholic Studies Program, where its formerly unique character was lost. Privett's coup, undertaken secretly, capped years of hostility toward SII from USF's liberal theology faculty. In protest, six SII professors resigned from the university.

Truth be told, SII was a profound embarrassment to USF's catastrophic attempt to ape secular universities' devotion to "dumbing down" their institutions by pretending the past never happened. Although enrolling only about two percent of the student body, SII — where students studied classical works in literature, history, philosophy, and theology — regularly attracted a disproportionate number of the university's brightest students.

Furthermore, the program's students repeatedly took home USF's top academic honors. In 1998, SII received an award from the prestigious Templeton Foundation declaring it one of the finest great-books programs in the country. It was home of several distinguished leaders of the Catholic Church, including the founder of SII and the Ignatius Press, Father Joseph Fessio, and noted theologian Erasmo Leiiva-Merikakis.

CAMPION COLLEGE

Naturally, then, SII had to be crushed. But as Jesuit hobnail boots stomped the life out of SII, a seed took root that gave life to Campion College. Father Fessio teamed with former administrators Galten and Hamlon to found an institution that, according to Galten, "represents

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something new." Soon, three of SII's core faculty members — professors Raymond Dennehy, Dr. Michael Torre, and Kim Summerhays — joined Campion's team.

Campion professors see their work as akin to that of the old SII. Professor Dennehy says the reconstructed SII changed dramatically after its core faculty left. In the *National Catholic Register*, he described the current program as a "Potemkin village," referring to the Russian general who built phony villages to impress Catherine the Great. "The name is there, but its commitment to the teachings of the Vatican is no longer there," said Dennehy. Need proof? One of the first hires made for the "new" SII is Albert R. Jonsen, an ex-Jesuit medical "ethicist" who defends human cloning, euthanasia, and tissue banks using human body parts obtained from abortions — all positions diametrically opposed to Church teachings.

According to its web site, Campion College was founded as "an independent program embodying both the spirit and the curriculum of the original St. Ignatius Institute, free from the constraints of a larger university that does not share its goals." Of the new institution, Galten says, "We will have the ability to do our own recruiting and will have control over our own destiny."

Well, not quite. From the moment Campion College was announced, USF went on the attack in an attempt to destroy the fledgling school. USF released a statement saying: "The University will not support a program that duplicates its own," adding that "parents and students must clearly understand that Campion is not accredited."

Fr. Privett reportedly lambasted Campion College, assuring the audience how Catholic USF is. He cut his diatribe short, though, to rush to the opening of the latest program of study at the university: New Jewish and Christian Approaches to Homosexuality.

Yet, the college has the wholehearted endorsement of Cardinal Christoph Schönborn, archbishop of Vienna, who said Campion "will be a beautiful enrichment for the vast field of Catholic education. It will provide an excellent formation in the best tradition of Christian humanism. Campion College is truly full of promise." Furthermore, even before its doors open, three universities — Michigan's Ave Maria University, Franciscan University of Steubenville, Ohio, and the International Theological Institute in Gaming, Austria — have agreed to accept its credits.

THIN GRUEL

The USF assault continued: "Students may be disappointed to find that Campion lacks the myriad benefits a full University can offer — including a fully stocked library, state of the art computer labs, the ability to join an ethnic club, play on an intramural team, participate in Third World immersion experience, or join student government." As if that thin gruel makes up for the meat and potatoes regimen of studying the masters of Western thought.

At USF's recent spring convocation, Fr. Privett reportedly spent the last ten minutes of his talk lambasting Campion College and assuring the audience how Catholic USF is. He had to cut his diatribe short, though, to rush over to the grand opening of the latest program of study at the university: New Jewish and Christian Approaches to Homosexuality.

As if it didn't face enough challenges, Campion College will have to proceed without one of its founders. On March 11, Father Tom Smolich, Father Fessio's Jesuit superior, or-

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dered Fessio, one of Catholicism's most esteemed, influential voices in the United States, to break off public and private ties to the new college. Smolich exiled Fessio from San Francisco, forbade him any further contact with Campion administrators, and demoted him to the post of assistant chaplain at a Southern California hospital.

A 'PROGRESSIVE' LENT

In a recent interview, Fessio said his dismissal from San Francisco undoubtedly resulted from his long-running criticism of USF and his plans to establish Campion College.

"What I was trying to do with Campion College was offensive," he said. "They probably saw it as an indictment of them." Others must have agreed with Fessio: Campion College already has 60 applicants for the 15 spots available on its San Francisco campus. The "new and improved" SII? Fewer than 10 have applied for next fall's semester.

Furthermore, Fessio vehemently opposed USF allowing the sex play "The Vagina Monologues" to be performed during Lent. As Fessio said, "A Catholic University doing that during Lent, the holy season — that's not a Catholic thing to do." Among its other unedifying themes, "Vagina Monologues" features the homosexual seduction of a minor. Just what the Catholic Church would be wise to promote on its campuses right now, don't you think?

Liberals — constantly flapping on about 'tolerance' and 'diversity' — rarely practice what they preach. True advocates of diversity and academic freedom would welcome Campion College.

The tyrannical tactics employed against Fessio recall those of Soviet Russia. When a bully can't win an argument, his only option is to shut his opponent up. The Solzhenitsyn-style muzzling of Father Fessio by the Jesuits – a once-proud order being driven to death by far-left ideologues — again reveals the totalitarian fangs behind "progressives'" happy-face smiles. Liberals — constantly flapping on about "tolerance" and "diversity" — rarely practice what they preach. True advocates of diversity and academic freedom would welcome Campion College. The college's namesake, sixteenth-century English Jesuit, distinguished scholar, and martyr St. Edmund Campion, died at the hands of narrow-minded men frightened by the truth. He will understand the trials the new college now endures.

A BLADE OF GRASS

The Jesuits' panicky repression gives perverse testimony, in a way, to the power a Campion College represents — the smallest blade of grass breaking through modern education's frozen tundra, yet posing a mortal threat. As with the U.S.S.R., a word of truth brought down an entire totalitarian regime. It can do it again. No wonder the Jesuit hierarchy is terrified. CPR

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Giovati

(Continued from page 12)

that have grown out of 9/11. To a degree, it makes sense. A law-abiding citizen generally should not be afraid of steps society takes to apprehend lawbreakers. We do need to protect California from thugs and terrorists, and some high-risk areas indeed deserve special scrutiny. The problem lies in just how far the latest Big Brother, state-sanctioned measures are ultimately going to go. (Private companies or individuals keeping an eye on their own property aren't what I'm worried about.) Some people would reasonably contend that things such as video cameras and photo surveillance are inherently fair, because they treat everyone the same. But that's exactly my complaint! I'm not a criminal, and I don't appreciate being dogged like one. It's one thing to monitor an airport or train station, quite another to snap pictures routinely of average folks engaging in benign, everyday activities. If we reach a stage where we're watching everyone all the time no matter who they are, the distinction between decent people and bad actors will have become a meaningless blur. That's not good.

6) THIS LEGISLATION SENDS A MESSAGE. To whom, and for what? I've got phone, fax, pager, package, letter, e-mail, print media, television, radio, etc. as ways to send messages. A new law or program may in some cases make the Golden State a better place, but sending a message should rarely be the driving force to create one. I cringe when I hear this phrase.

7) IT'S JUST COMMON SENSE. This cliché is typically trotted out by a bill's supporters in tandem with admonitions about what "civilized societies" and "industrialized nations" are similarly doing. It conveys certainty that a "no" vote on the matter is neither sensible nor civilized, that the proposed legislation's objectives are so noble no fair-minded person could find fault with them. Take a contrary stand and you may well find yourself called an extremist, which might be the most damaging characterization of all in today's Capitol. Liberals may take heart however: extremists appear to exist only on the right. Even a radical left-winger is probably not a zealot; most likely, he's actually an "advocate." Big difference.

So, there it is. I may have left a few worthy contenders out, but the evidence is still overwhelming. Readers have probably already thought of many more examples that could be offered, but I think this list conveys the point. That's why I began by saying the California legislative process has been hijacked by clichés and slogans. Hey, I don't make the news, I just report it. I'm no happier about this detour than anyone else.

The linguistic situation in Sacramento is worse than many of us imagined. Is it already too late, or can those at the Capitol act to insure that clichés don't usurp candor, and that slogans won't trump solid legislative analysis? I can't answer that. But I will suggest that we need to get articles disagreeing with mine off the streets, and that if my detractors haven't done anything wrong, they've got nothing to worry about. If my thoughts save just one life, it's worth it, and therefore no responsible person can challenge these observations. May my words never become clichéd. Think of this as just another common sense message we should send California ... for the children. CPR

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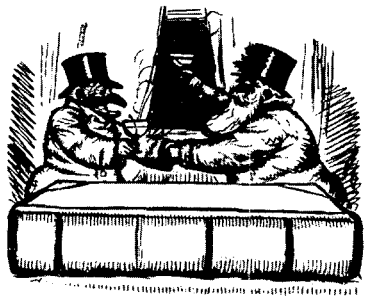

CRITICUS

A Plague of Plagiary

BY G.B. TENNYSON

PLAGIARISM HAS been thought of chiefly as an academic or quasi-academic activity involving the unacknowledged use of the words of another, usually in some historical or factual work. Quite so. Criticus has had several plagiarizing colleagues (as distinct from students, who are chronic and usually inept plagiarizers). Those who have been caught are customarily treated like sexually wayward priests and released back into the classroom. Criticus knows of one such who, some years after being gently chastised by the deans, was given an outstanding teaching award. Such are the ways of academe. But in truth, plagiarism is wider than academia and seems to be on the rise in the world beyond the classroom and the obscure scholarly journal.

Although it began life carrying a very physical denotation, the word *plagiarism* early on came to be used to signify any kind of theft of the intellectual or artistic work of another. This makes sense in that the words plagiary and plagiarism (variants of one another) come from the Latin verb *plagiare,* to kidnap, and the noun *plagiarius,* one who abducts the child or slave of another, a kidnapper. Charmingly, in its transferred meaning, it came to denote literary theft and was thus used as early as the Latin poet Martial (c.40 AD–c.104 AD). I write "charmingly" because it reminds us that authors and creators have from earliest times thought of their works as their children, so to steal one was a kind of kidnapping.

The notion of actual physical kidnap lasted in English into the seventeenth century. "How many be there that, like Plagiaries, make it their trade to hunt and catch men?" asked one H. King in 1626 in a sermon on "Deliverance." Side by side with this meaning we find the transferred one when, in 1601, Ben Jonson exclaims of a poem "Why? the ditt[y] is all borrowed; 'tis Horaces: hang him plagiary." And in 1649 Jeremy Taylor shows that the concept extended beyond words: "He that is a Plagiary of others titles or offices, and dresses himself with their beauties," suggesting something like impersonation.

By the nineteenth century the term had become largely confined to the theft of someone else's work, especially literary work, Samuel Taylor Coleridge's extensive unacknowledged borrowings from German sources being the most notorious example. And that

G.B. Tennyson is not himself a plagiarist, but he did once do service as a ghostwriter, which some would say is related. He continues in his capacity as CPR's official Spielzeughistoriker.

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brings us to the recent rash of plagiarism that has attracted so much public attention. I mean, of course, the cases of Stephen Ambrose and Doris Kearns Goodwin. As has been widely reported in the print media (television cares not), Ambrose is the former academic who has published a huge quantity of books of popular American history on a wide range of subjects but chiefly on war and battles. Most notable among these are *Band of Brothers* (which generated a television miniseries), *The Wild Blue* (about the air battle over Germany in World War II), and *Crazy Horse and Custer* (about a well-known episode in American history). Beyond his more than thirty books, Ambrose is also a three-million dollar a year industry employing numerous researchers as well as engaging his family in all sorts of ventures relating to research studies, support of museums, publishing and distributing books, arranging movie deals (he consulted on *Saving Private Ryan),* and conducting tours based on Ambrose's books.

Samuel Taylor Coleridge

By the nineteenth century the term had become largely confined to the theft of someone else's work, especially literary work.

The first hint of the P-word came early this year when Fred Barnes in a cover story in *The Weekly Standard* pointed out that Ambrose had lifted passages from Thomas Childers's *Wings of Memory* for his, Ambrose's, *The Wild Blue.* At first this was attributed to the usual impersonal culprits always invoked in such cases: the author mixed up his notes, file cards got transposed, necessary quotation marks were accidentally left out, and so on. But then further cases surfaced from various sources. Ambrose was found to have lifted passages from two other books for his Custer study and to have used passages from another book for his account of the development of the railroad. As of this writing six Ambrose books have been found to have substantial, unacknowledged borrowings from other works. The Ambrose industry chooses to be largely dismissive of these lapses, and Ambrose gruffly says he is after all a "storyteller," not an academic historian, despite his earlier multi-year academic appointment at the University of New Orleans. And just in the nick of time Ambrose has now been diagnosed with a serious case of lung cancer. Criticus, ever charitable, would not go so far as the waspish Gore Vidal who greeted the news of the death of a disliked author with the comment, "Smart career move." But Criticus does note that almost certainly the criticisms of Ambrose will be muted as a consequence of his regrettable illness, and probably the search for other instances of borrowing will abate.

Not so fortunate the perpetrator of that other recently highly publicized case of plagiary, namely Doris Kearns Goodwin, found to have used unacknowledged borrowings in her *The Fitzgeralds and the Kennedys.* Again, the charge began with unauthorized borrowings from one work, Lynne McTaggart's *Kathleen Kennedy: Her Life and Times.* So extensive were these borrowings — "thousands of my exact or nearly exact words," according to McTaggart — that Goodwin's publisher made an out of court financial settlement with McTaggart. Goodwin also went public with a *mea culpa* and the usual explanations about research assistants and massive notes and mixed-up reference sheets, which might have ended it all; but then other instances of Goodwin's borrowings from other authors came to light. Her publisher, Simon and Schuster, has now declared that it will pulp all remaining copies of the book and issue a corrected version. None of this likely involves what Everett Dirksen so engagingly called "real money" — "a billion here, a billion there" — but it probably means a tidy sum to thee and me.

AT ANY rate, Goodwin is being punished rather more severely for her one book plagiarism than Ambrose for his many. To be sure, she enjoyed more prestige among the intellectual elite than Ambrose, Inc. (as the *Wall Street Journal* called him), for Goodwin was a regular on the PBS "News Hour" with Jim Lehrer and on many of those talk shows hosted by the rich and liberal. She was even a member of the Harvard Board of Overseers, from which the *Harvard Crimson* has now called for her to resign. She was disinvited by the University of Delaware as a commencement speaker, and she has taken an indefinite leave of absence from "The News

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Hour." It looks to Criticus as though it is time for Ms. Goodwin to contract a serious illness. Parkinson's is fashionable these days; Ebola is probably too extreme.

Ambrose and Goodwin, showy as their cases are, are only the largest recent paw prints in the mud beside the swollen river of plagiary. (Block that metaphor!) It was but a decade or so ago that the massive plagiarisms of Martin Luther King and Alex Haley were uncovered, King's by Theodore Pappas and Haley's by Philip Nobile. These have been so successfully downplayed by the mainstream media that many, perhaps most, people are even now unaware of them or dimly recall them as minor. Criticus will not rehearse them all here but content himself with these statistics from Pappas: more than 61 percent of King's doctoral dissertation was plagiarized, as well as an undetermined amount in all his other writings and speeches, and virtually all of *Roots* and much of other Haley works were lifted from other sources. In one out-of-court settlement Haley allegedly paid more than a half-million dollars. Meantime the King family jealously guards all of King's writings and charges excessively for any use thereof.

Christopher Hitchens had the *chutzpah* in an article on plagiarism to steal from Pappas's book on plagiarism!

Joining King and Haley as plagiarists, though generally to a smaller degree, Pappas lists: Dee Brown (*Bury My Heart at Wounded Knee),* Gail Sheehy (*Passages),* Ken Follett (*The Key to Rebecca),* Norman Mailer (his first book on Marilyn Monroe), Jacob Epstein (*Wild Oats),* Joe McGinnis (*The Last Brother),* David Leavitt (*While England Sleeps),* Stephen Oates (biographies of Lincoln, Faulkner, and, appropriately, Martin Luther King), Bruno Bettelheim (*The Uses of Enchantment),* Maya Angelou ("Inaugural Poem"), Deepak Chopra (*Ageless Bodies, Timeless Minds),* Ismael Kadare (*The Concert),* columnist Molly Ivins, and journalists Ruth Shalit and Christopher Hitchens, the latter of whom had the *chutzpah* in an article on plagiarism to steal from Pappas's book on plagiarism! All of this rich material can be found in Pappas's *Plagiarism and the Culture War* (1998), an expanded version of his earlier *The Martin Luther King, Jr., Plagiarism Story.* For a broad pre-King account of plagiarism see Thomas Mallon's *Stolen Words: Forays into the Origins and Ravages of Plagiarism* (1989).

Pappas rightly notes that the context of the King plagiarisms and that of many others occurred during the broad cultural transformation of the 'sixties that led to "multiculturalism, cultural relativism, political correctness and their many manifestations, from sensitivity seminars and diversity training to the war of defamation on the cultural inheritance of old Europe, on the Anglo-American traditions of our country, and on white western males and their achievements in general." That is the reason for his subtitle calling attention to the "culture war." Of course, plagiarism has always been with us, so cultural changes may account more for the frequency, the subjects, and the public response to it than for its existence. Thus in an age that honors educational achievement there will be more plagiarism in dissertations and more people — even some in sports like the just-resigned female head of the U.S. Olympic Committee — padding their resumes with degrees they never earned. And more people excusing these transgressions. Even so, it does seem going a bit far to have a national holiday for a plagiarist.

Cultural conditions perhaps also account for some other strange cases, not of plagiarism but of activities that have affinities with it — hoaxes, forgeries, falsifications, misrepresentations, altered histories. There is the bizarre case of Joseph Ellis, the Amherst history professor, who regularly enlightened and enlivened his lectures with tales of his military adventures in the Viet Nam war. It turns out her never set foot in Viet Nam. There is also the strange case of Professor Michael Bellesiles of Emory University whose *Arming America* won the Bancroft Prize for history but is now under attack, not for plagiarism but for sheer manufacturing of data. His book purported to show from an examination of early records that America has not had a longtime love affair with guns, that militias were not central to the Revolutionary War, and that guns did not become generally important in the cul-

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ture until after the Civil War. But when others sought to check his data, they found they couldn't find it or they found information that flatly contradicted the Bellesiles thesis. Nor did Bellesiles have his notes. He claimed they were washed away in a fire or flood or something similar, which is, one supposes, the grown-up academic version of: the dog ate my homework. The left had joyously welcomed *Arming America.* Now a team of scholars is investigating the book, and the publisher promises changes in future printings. Maybe the public can demand reparations.

There is the strange case of Michael Bellesiles whose *Arming America* is now under attack, not for plagiarism but for sheer manufacturing of data.

HOLLYWOOD BRISTLES with cases of plots and story lines allegedly plagiarized or at least lifted from some other piece of work. Criticus has two colleagues who have made lucrative side incomes from testifying as expert witnesses in cases involving allegedly stolen television plots, ideas, and characters. At one time they were on opposite sides of a case that seemed to hinge on something alarmingly close to what the meaning of "is" is. And that was some years before the Great Prevaricator made such verbal contortions a national concern. As far as I know neither one was involved in the *Amistad* case, in which it was claimed that an unacknowledged book was the source used for the Steven Spielberg film of that name. I think this was the case that led one wag to dub the great director Steven Stealberg.

On the other side of the coin we find a book that made no secret of its source. Alice Randall's *The Wind Done Gone* is an unabashed take-off on *Gone with the Wind,* so much so that the estate of Margaret Mitchell sued for copyright infringement and sought to have the book withdrawn. This is the one in which Scarlett (called only "Other") has a mulatto half-sister named Cynara, sired on Mammy by patriarch O'Hara, and it is she who tells the tale, which includes her serving as Rhett Butler's mistress. Pretty broad stuff and not worth book-length treatment, but frankly, my dear, Criticus thought the Mitchell estate was overreacting and was not surprised when there was at last an out-of-court settlement and the Randall book came back into the bookstores with a subtitle stating that it was a parody of *GWTW.*

By now we have left the world of direct plagiary rather far behind, but, to close the book, so to speak, on this business of borrowings, Criticus bows to popular demand that came in response to a remark that he let fall a year or two back in these pages. It has a particular relevance now in the light of the fact that we all recently lamented the passing of Ruth Handler, known variously as the "inventor" and the "creator" of the Barbie doll. "Developer," "adapter," or "marketer" would, in the Critical view, be more accurate terms.

The official story is that Handler's daughter Barbie often played with cutouts of paper dolls that were teenagers or career women, as opposed to the standard baby dolls of the 1950s and, noting this, Handler tried to persuade the powers at Mattel to produce an adult doll for girls, but she was rejected. Odd bit that, considering that the Handlers owned half of Mattel, but it makes it appear that a Barbie was already on Ruth Handler's mind. The story continues that Handler let the project lapse until on a European trip in 1956, she saw in a shop window a doll called Lilli that looked like what she had in mind. Most versions say this happened in Switzerland. In the story on Handler's death in the *Los Angeles Times,* the doll in question was at last described as having been spotted in Germany. Again officially, Handler brought one back to the United States and, with difficulty, finally persuaded Mattel to draw up a design that could be made into such a doll by a Japanese manufacturer. The deed was done, Lilli, now named Barbie after Handler's daughter, was born, was introduced at the American Toy Fair in 1959, and the rest is history.

BACK TO pre-history. Lilli was almost certainly found and purchased in Germany, for the doll was none other than Bild Lilli, a doll based on a cartoon character that ran in the Hamburg-based tabloid *Bild-Zeitung* (*Picture Newspaper),* a newspaper sold even to this day all over Germany. No doubt it is also available in Switzerland,

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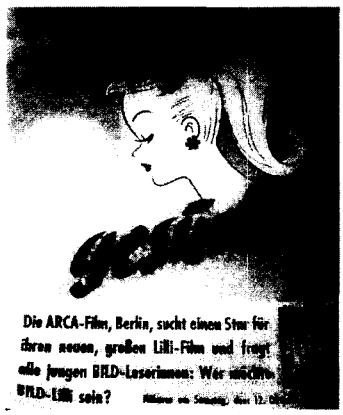
but the actual doll (as distinct from the drawings) first appeared in August 1955 and was available first as a novelty in tobacconist shops and a few toy stores. Handler bought what turns out to have been three Lillis in 1956 when they were still in relatively limited circulation. Perhaps in retrospect it seemed more innocuous to have bought the doll in fairytale Switzerland to keep it neutral.


Die ARCA-Film, Berlin, sucht einen Star für
ihren neuen, großen Lilli-Film und fragt
alle jungen BILD-Leserinnen: Wer
BILD-Lilli sein?

The Lilli character was sufficiently popular for Beuthien to engage a designer to create the Lilli doll.

EVEN BEFORE there was a doll, there were the drawings. These were the work of a cartoonist named Reinhard Beuthien, and the first appeared in *Bild* on 24 June 1952 and ran every Sunday for years thereafter. Beuthien's wife Erika helped with the fashions Lilli wore, one of which was the striped black and white swimsuit also worn by the first Barbie. Lilli has been described as "classy, sassy, fashionable, and desirable," which is to say she was sexy and saucy and appealed especially to men, who were often recipients of Lilli dolls, which in turn they displayed in their cars. From the start, Lilli had that extremely curvaceous figure for which Barbie has been so often criticized and which has lately been modified to appease feminists. The Lilli character was sufficiently popular for Beuthien to engage a designer named Max Weissbrodt working for a well-known toy company, Hausser, to create the Lilli doll. She came in a dress or in the famous swimsuit, and additional clothes for her could be purchased separately. In short, pretty much the whole Barbie concept was in existence some years before Barbie. Moreover, just to confuse things, several other companies throughout the world bought or leased the Lilli molds and in the early 'sixties created Lilli-type dolls with other names, such as Cherie, Babs, Bonnie, and Miss Seventeen. Mattel acquired the rights to Lilli the year before Barbie's debut in 1959 and presumably eventually cleared the field of all other Lillis. These other versions still occasionally bedevil collectors of the true Lilli, who regularly pay as much as, or more than, the prices commanded by a first-issue Barbie. At present the price runs about five to seven thousand dollars.

How is all this known? Well, there is a Barbie, or perhaps more correctly, a Lilli museum in her hometown of Hamburg and many Barbie collections in other toy museums in Germany, as well as frequent conventions for collectors. Thus the Lilli story is quite well known there, though it did not make it across the Atlantic to the general public. Of course, all serious collectors around the world know it, and now the Internet teems with Lilli stories and sales offers. Still, one reads of Handler's "creating" and "originating" Barbie, and of Barbie's being an "American icon" — which, to be sure, like many another immigrant she became — and of Barbie's being the first doll to have a career, or indeed careers. That honor probably really goes to Criticus's beloved Gollywog who was having careers as early as the 1930s, but even Lilli was moving in that direction, while still remaining more overtly pert and sexy than Barbie would be marketed as being. Handler certainly modified Lilli in a more girl-oriented direction, and certainly she and Mattel created the vast family of Barbie friends and companions. But we must remember that if Barbie turned forty in 1999, Lilli as doll turned forty-four that year and as cartoon character turns fifty this year. Criticus is far from accusing anyone of falsification, but he would go so far as to echo that old British expression to the effect that some people seem to have been economical with the truth.

As coda to this story, which is also history, let me note that the late Madame Criticus had an eye for a doll as sharp as Ruth Handler's, but she was, alas, totally lacking any of Handler's merchandising brilliance. Mme. C. spotted the original Lilli in Germany a year before Handler did, bought one forthwith, kept it for later daughters of her own, who played with Lilli (by then rechristened Roxanne, I know not why) along with a throng of Barbies. Since virtually nothing that ever enters the black hole of the Critical garage ever escapes, the Barbies have been saved, as has the original *Bild* Lilli. Their collective destiny will take them to Texas, where they will wait for a one-year-old granddaughter that Mme. C. never lived to know to be old enough to play with them and to hear the true story of Lilli's origins. CPR

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